

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

PROOF OF EVIDENCE ON BEHALF OF:

Level Crossings – HA03, Manor Farm and HA4, Eve's

Landowner: Mr Stuart Mee

Borough: Havering

Department of Transport Reference: TWA/17/APP/05/OBJ/13

1. Introduction

- 1.1 This Proof of Evidence is submitted by Strutt & Parker LLP (S&P) on behalf of Mr Stuart D Mee 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 Mr Mee's letter to the Secretary of State for Transport of 9th May 2017.
- 1.3 We ask that the Inspector considers the contents of point 1.2 above.
- 1.4 Subsequent to that a letter was received from Network Rail on the 4th September 2017 and a copy is attached at **Appendix I**.
- 1.5 Network Rail's Proof's of Evidence were received on the 20th September 2017.

2. Questions

As a result of the letter and proof's of evidence received from Network Rail we would like to ask the following questions of Network Rail at the public inquiry:

- 2.1 In Network Rail's 12th paragraph of their letter of the 4th September 2017 they state "Network Rail is under an obligation to provide an alternative route unless it can satisfy the Secretary of State that no alternative is required".
- 2.2 Prior to this in the same letter Network Rail state that "our proposed diversion along field edge paths is a replacement of the existing cul-de-sac footpath to the east of Pea Lane"
- 2.3 In the Proof of Evidence of Susan Tilbrook she states at 2.51.4 that "During a nine day census survey, which included two weekends, no users were recorded on the level crossing"

2.4 Therefore, we ask that Network Rail explain why they believe the Secretary of State will require the creation of 2,400 metres of additional rights of way (2.51.10)?

2.5 Our client has repeatedly raised concerns about the significant risks of pedestrians using the Ockendon Road hump back bridge. Under point 2.51.16 of her Proof of Evidence Susan Tilbrook says that "These factors may result in collisions between pedestrians and vehicles."

2.6 Under 2.51.18 Ms Tilbrook goes on to say that "A length of approximately 15m carriageway is within the zone of limited visibility"

2.7 We ask Network Rail if they have provided the Road Safety Audit that Ms Tilbury refers to for the Inquiry to consider?

2.8 In Andrew Kenning's proof of evidence at point 14 he comments that they will continue to "engage with affected landowners With a view to reducing, or mitigating, the impact of the project as much as is reasonable practicable" We ask Network Rail to explain why they have not made these efforts prior to applying for the TWA as would be good practice so as to minimise costs and time for all parties?

Signed for and on behalf of Mr Stuart D Mee:



.....
Alexander Creed
20th September 2017

Appendix I: Network Rail Letter 4th September 2017



Stuart Mee
Manor Farm
Ockendon Road
Upminster
Essex
RM14 2TZ

Network Rail
James Forbes House
27 Great Suffolk St
London
SE1 0NS

04th September 2017

Ref: Obj/ES/013/R001

Dear Mr Mee,

**The Network Rail (Essex Level Crossing Reduction) Order
Level crossings HA3 Manor Farm and HA4 Eve's
Borough : Havering
Plots 1, 2, 5, 6, 8, 9,11 and 16**

The Department for Transport has passed to us your letter of objection to the proposed Order dated 3rd April 2017, which has been allocated the reference OBJ/013. We have also received your statement of case.

We note your concerns and, in the following paragraphs, we respond to the points you raise. We set out below the current and proposed status of the level crossing referred to in your objection.

Level Crossing	Current Status	Proposed Status
HA3 Manor Farm	Public Footpath	Existing footpath to be extinguished. Users diverted via footpath to Ockendon Road bridge to the north.
HA4 Eve's	Public Footpath	Existing footpath to be extinguished. Users diverted via new footpath to Ockendon Road bridge to the north.

First, it may be helpful to set out the strategic context and background against which the Order is brought forward.

Network Rail is responsible for the management and safe and efficient operation of the railway network. It operates under and is bound by the terms of its licence under the Railways Act 1993. It is regulated by the Office of Rail and Road (ORR).

In accordance with the terms of its licence and the strategic aims and policies of the ORR, Network Rail has a duty to ensure the safety of users of the railway and to promote improvements in railway services by cost effective and efficient

management of the network. It is also legally responsible for safety on and around the railway, including at level crossings, not only for those using the railway, but members of the public who may otherwise come into contact with it. Network Rail is thus obliged to protect the public from the dangers of the railway so far as reasonably practical.

As is recognised by the ORR in its Level Crossings Policy, the removal of level crossings is the most effective way to achieve this objective, removing the interface between trains and highway users entirely.

ORR's strategy for health and safety regulation of level crossings makes clear that it will encourage crossing closure, and ensure that all risk assessments consider this first, in line with the principles of prevention.

In accordance with that objective, Network Rail has established a long term strategy of reducing level crossing risk (see *Transforming Level Crossings 2015-2040*). Closure of level crossings is the most effective way of removing the risk from the network. Reducing the number of level crossings will also remove constraints on the railway to enable enhancement of capacity and improvement of line speed (in association with other schemes) and to secure operation and maintenance of the network in a timely, efficient and economical manner in accordance with Network Rail's statutory duties and licence.

For further information about Network Rail's strategic aims please refer to Network Rail's Statement of Case, a copy of which was served on you.. The Statement can be found at <https://www.networkrail.co.uk/running-the-railway/our-routes/anglia/anglia-level-crossings/>. Alternatively you can inspect a copy at one of the locations in the attached list.

You said at consultation events and in your objection letter that you are concerned with the safety of pedestrians using the Ockendon Road bridge as part of Network Rail's proposed diversion route.

Network Rail commissioned an independent Road Safety Audit in developing its proposal, hence we are providing off-road walking where possible along Pea Lane and Ockendon Road. The level crossing, HA03 Manor Farm, has not been available for public use since the M25 was constructed and severed the footpath. Therefore any walkers in the area are already using Ockendon Road bridge to cross the railway at present. Our proposed diversion along field edge paths is therefore a replacement of the existing cul-de-sac footpath to the east of Pea Lane. Network Rail is under an obligation under the Transport & Works Act 1992 to provide an alternative route unless it can satisfy the Secretary of State that no alternative route is required.

The need to cross Pea Lane at Manor Farm is not changed from the current route.

The accommodation, diversion or extinguishment of existing roads and public rights of way necessitated by the Lower Thames Crossing Project will be dealt with as part of that Project's development process, which is in the early stages.

We note that as landowner you object to the route of the proposed footpath. In response to your specific security and privacy concerns, we note that there is an existing public footpath and road adjoining your property, and Network Rail's

proposals for an additional footpath should not adversely impact the security and privacy of your property.

In relation to your objection to the closure of HA04 level crossing, we are providing a suitable and convenient diversion to the west of the railway and to the eastern side the existing rights of way network already provides a suitable and convenient diversion.

We hope that our response has provided sufficient clarity on each of the points made in your objection, and has addressed your concerns about this level crossing. If so we would be grateful if you would kindly let the Department for Transport know by withdrawing your objection. We look forward to learning your position.

Meanwhile, if you require further information please do not hesitate to contact me on the address above or by email to ALCross@networkrail.co.uk , quoting the reference number provided.

Yours sincerely

A handwritten signature in black ink, appearing to read 'Bridgit Choo-Bennett', with a stylized, flowing script.

Bridgit Choo-Bennett

Anglia Level Crossing Reduction Team
Network Rail