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

PROOF OF EVIDENCE ON BEHALF OF:

Francis Paul Braeckman
Department of Transport Reference: TWA/17/APP/05/OBJ/123

1. Introduction

- 1.1** This Proof of Evidence is submitted by Strutt & Parker LLP (S&P) on behalf of Francis Paul Braeckman 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 10th May 2017.
- 1.3** A Statement of Case was 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 on 4th July 2017.
- 1.4** We ask that the Inspector considers the contents of point 1.2 and 1.3 above.
- 1.5** Subsequent to that a letter was received from Network Rail on the 29th August 2017 and a copy is attached at **Appendix I**.

2. Questions

- 2.1** As a result of the letter received from Network Rail (**Appendix I**) we would like to ask the following questions of Network Rail at the public inquiry:
- 2.1.1** In paragraph 4 it states that 'the highway authority and they are not prepared to allow the route to simply be extinguished when the crossing is formally closed.' Please can Network Rail provide evidence of Essex County Council requirement as there has never been connectivity between the M11 and the railway line and is we believe over and above the requirement to provide an alternative route.
- 2.1.2** In paragraph 5 the cul-de-sac referred to the north is due to the closure of the crossing over 2 years ago. If it was felt this was such a key link why was it not dealt with when the crossing was closed?
- 2.1.3** In paragraph 6, 7, 8 & 9 paths EX/25/37 and EX/51/24 only exist due to the creation of the M11 motorway and have little historic bearing and there for ask why EX25/37,

EX51/24 and EX/25/7 should not be extinguished as part of this as the connectivity to the east of the railway line is no longer present and there is suitable connectivity to the south at Elsenham. As users can walk either west of the M11 north to south or east of the railway north to south, is there a need for the new route in between? What function does it actually serve? **Appendix II** shows a copy of the definitive map prior to the M11 being constructed for reference.

- 2.1.4 In paragraph 7 it says that Essex County Council are keen to keep road walking to a minimum. Why is it acceptable for users to walk approximately 700m from the eastern end of EX/51/16 to the new route east of the railway line that connects to EX/25/15 and not approximately 150m to connect from the northern end of EX/51/13 and EX/25/37?
- 2.1.5 Paragraph 9 refers to paragraph 4.2 of the Statement of Case and doesn't consider the proposed alternatives. There is connectivity north to south on the west of the M11 via paths EX/51/12 and EX/51/13 and to the east of the railway line via Old Mead Road and EX/25/1, EX/25/26, EX/25/14 and EX/25/29.
- 2.1.6 Please can Network Rail provide evidence that they consulted with Mr Braeckman regarding the proposals?

3 Summary

- 3.1 On behalf of Mr Francis Paul Braeckman 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 Francis Paul Braeckman:

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Edward Rout

20th September 2017

Appendix I: Network Rail Letter 29th August 2017

Appendix II: Historic Definitive Map



Edward Rout
Partner
Land Management Department
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Chelmsford CM1 2QF

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

29 August 2017

Ref: Obj/123/ES/R001

Dear Mr. Rout,

The Network Rail (Essex Level Crossing Reduction) Order
Level crossing E06 Elsenham Emergency Hut
Objector : Mr Francis Paul Braeckman
Parish : Henham ; Plot(s) : 1, 2, 3 and 14
Parish : Ugley ; Plot(s) : 1, 2 and 3

The Department for Transport has passed to us your letter of objection to the proposed Order dated 10th May 2017, on behalf of Mr Braeckman, which has been allocated the reference OBJ/123. We have also received your client's statement of case.

We are grateful for Mr Braeckman's confirmation that he does not object to closure of the crossing. We note Mr Braeckman's concerns in relation to the proposed creation of a new footpath in his field and, in the following paragraphs, we respond to the points raised in the statement of case and objection letter. We set out the current and proposed status of the level crossing referred to in the objection in the table below.

Level Crossing	Current Status	Proposed Status
E06 Elsenham Emergency Hut	Public footpath (EX/25/7) adjacent Old Mead Road and Church Road intersection.	<ul style="list-style-type: none"> Extinguish public footpath EX/25/7. Create new 2m wide footpath via western field margin along railway line to link EX/51/24 and EX/25/32. Users needing to access west of railway from the eastern footpath network shall be diverted to existing level crossing at Elsenham Station and thereafter along New Road and Bedwell Road joining existing western footpaths.

In terms of your client's land that is permanently affected by the proposals, Network Rail is seeking temporary acquisition over plots 1, 3 and 14 in the Parish of Henham to create a new public right of way (PROW). Network Rail will maintain the new public right of way for a period of 12 months after completion of construction. Following this, the new PROW will be adopted and maintained by Essex County Council and the land will remain in your client's ownership. Network Rail also requires temporary acquisition of plot 2 in the Parish of Henham for a worksite and plots 1, 2 and 3 in the Parish of Ugley for access for removal of the level crossing and access for creation of public right of way

E06 Elsenham Emergency Hut level crossing has been subject to a temporary closure order for some considerable time due to having insufficient sighting and safety issues with stopping and non-stopping trains at Elsenham station. Network Rail has had detailed discussion with Essex County Council for some time and they are looking at a permanent solution to enable users to access either side of the railway line. The footpath network is the responsibility of the highway authority and they are not prepared to allow the route to be simply extinguished when the crossing is formally closed. 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. This has resulted in finding a solution to continue to offer connectivity for the footpath network.

The section highlighted on Mr. Braeckman's land is part of a longer link that Essex County Council is keen to see created to link up a cul-de-sac that exists to the north. Therefore the land is included in the Order to be acquired compulsorily to provide an alternative route for users but Network Rail is willing to acquire the necessary access, temporary occupation and rights by agreement. This also responds to bullet point 3.4 in your client's statement of case.

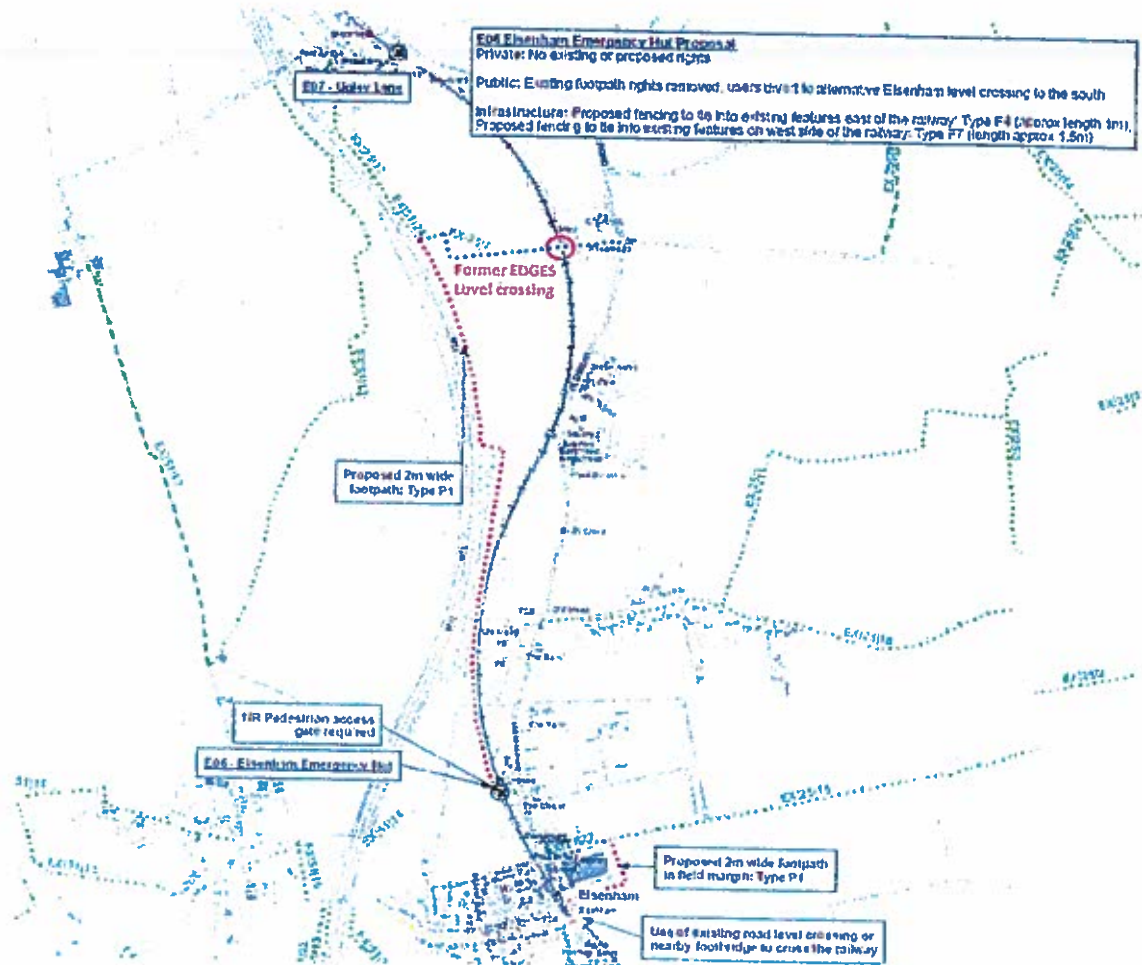
Proposed Alternative

Mr. Braeckman is correct that most of the footpaths are in a broad east/west orientation. Essex County Council was keen to see better links in a north/south orientation. Our proposal was therefore seen as a suitable replacement for the closure of the level crossing providing connectivity.

EX51/13 does run in a north/south direction, but it involves some on road walking and Essex County Council is keen to keep this to a minimum when linking footpaths. It is also further away from the village of Elsenham.

The level crossing identified in green on Mr. Braeckman's plan (and by the red circle below) was Edges level crossing. Edges level crossing closed in 2014/15. At the time of the closure Network Rail wanted to extinguish all of footpath EX25/7 but

Essex County Council would not allow this to happen, leaving cul-de-sacs on either side of the railway. The Order proposals now include extinguishment of EX/25/7.



With the closure of footpath EX/25/7, as mentioned above, Essex County Council have always been keen not to lose the connectivity potential that footpaths EX/25/37 & EX/51/24 could offer and would also not allow EX/25/37 & EX/51/24 to be extinguished.

E07 Ugly Lane is a private level crossing which is proposed to be closed under the Order. There is a public road which crosses the railway line adjacent to it which will remain open

To address the final point in the objection letter, we note Mr. Braeckman's concerns on risk of trespass on the railway. We shall keep the situation under review, however, we do not believe that the proposal will encourage trespass onto the railway. There are private properties to the east of the railway and it is very unlikely that users would trespass through residences.

We hope that our response has provided sufficient clarity on each of the points made in Mr. Braeckman's objection, and has addressed his concerns about this level crossing. If so, we would be grateful if he would kindly let the Department for

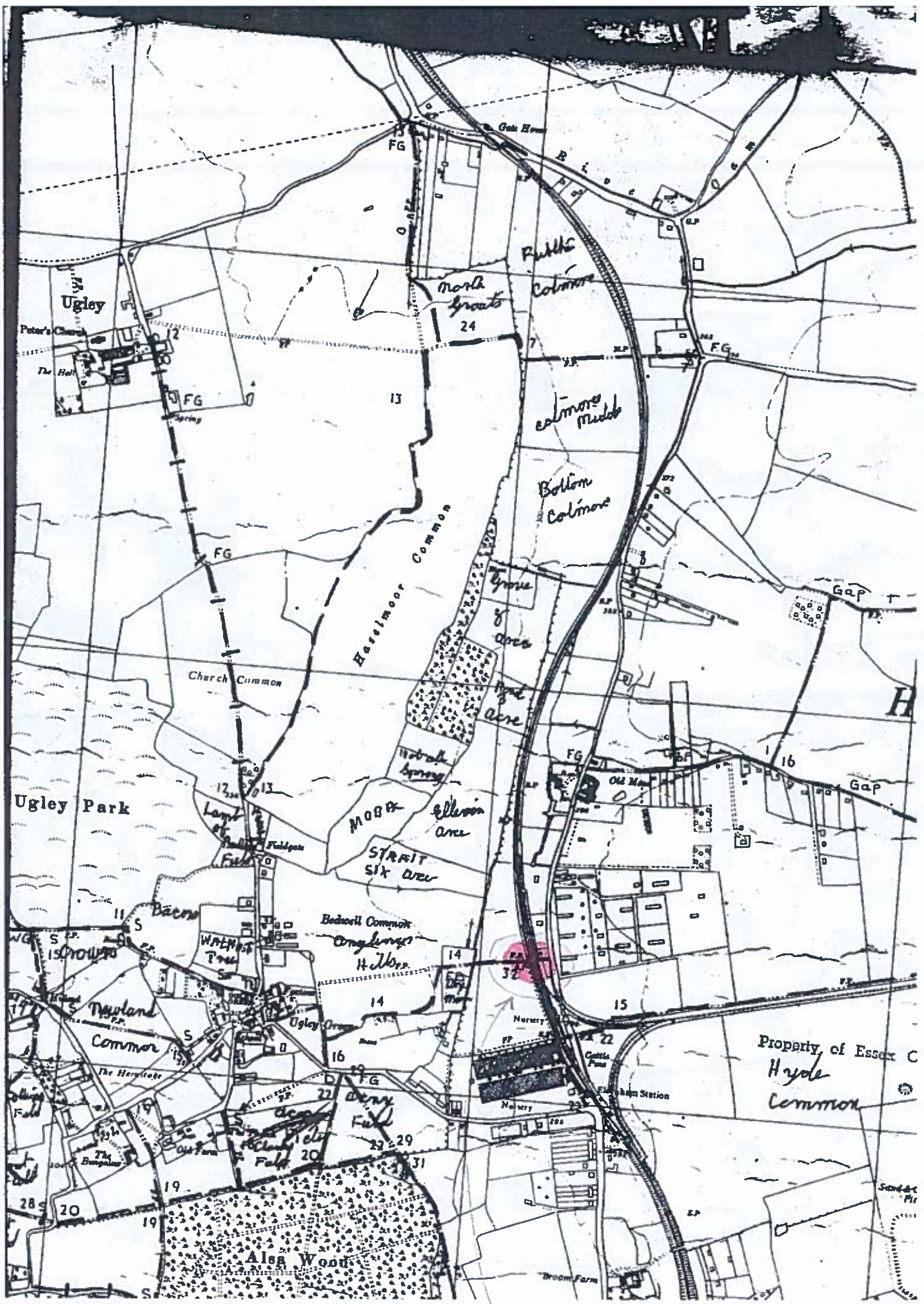
Transport know by withdrawing his objection. We look forward to learning your position.

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

Yours sincerely



Bridgit Choo-Bennett
Anglia Level Crossing Reduction Team
Network Rail



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E06
Crossing