

IN THE MATTER OF AN APPLICATION FOR THE TRANSPORT AND
WORKS (APPLICATION AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006

PROPOSED NETWORK RAIL (ESSEX AND OTHERS LEVEL
CROSSING REDUCTION) ORDER

OUTLINE REPRESENTATIONS

STATEMENT OF CASE

Introduction

1. These are the Outline Representations of Savills (UK) Ltd (“Savills”) in their capacity as agents to Darren Edmonston (“DE”) with respect to the application for a the proposed Network Rail (Essex and Others Level Crossing Reduction) order.

2. The matters raised in these Outline Representations are of concern to Darren Edmonston as owner of Tednambury Farm, Tednambury, Sawbridgeworth which would be affected by the proposed scheme.

Consultation and Engagement

3. There has been a lack of constructive and proactive face to face meetings with Network Rail’s (NR’s) agents Bruton Knowles (BK). Some discussions have been held but the detail required by the Darren Edmonston has not been forthcoming. Therefore it has not been possible to discuss all aspects of the scheme with Network Rail.

4. The Draft Order proposes permanent rights of way over areas 04, 18 & 20 as detailed on Sheet 08, which is currently a private lane. No explanation has been provided as to the necessity for these permanent rights and my client deems them unnecessary. My client is concerned Network Rail is looking to impose encumbrances on him, which are outside the scope and on the back of the closing of the crossing and not within the spirit of the Draft Order, which I understand is driven by health and safety requirements.
5. Insufficient detail for a scheme of this complexity has been provided. No information has been provided as to proposed accommodation works.
6. Network Rail has failed to provide any substantive feedback or response to demonstrate how they have taken account of the objections raised in deciding the final specification of the scheme.
7. No heads of terms have been sent out.

Compulsory Acquisition and Compelling Case Requirement

8. The Proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order will contain powers to acquire compulsorily so much of the Order land as is required for the authorised development or to facilitate or is incidental to it.

9. NR must show a “*compelling case in the public interest for the land to be acquired compulsorily*” Policy guidance is found in paras 8 and 12-16 of R the DCLG *Planning Act 2008 - Guidance related to procedures for the compulsory acquisition of land*, February 2013 (“the Guidance”) and considering Circular 06/2004.

10. Further, the guidance as to negotiations either before or parallel with formal processes may well give rise to a “legitimate expectation” that such will occur, and a failure to conduct such negotiations deprives landowners of the benefit that negotiations may have brought, especially where different locations and lesser rights might have been achieved: as to the principles see Council of Civil Service Unions v Minister for the Civil Service [1985] AC 374, per Lord Diplock at 408-409.

11. No meaningful negotiations have taken place alongside the formal procedures for compulsory purchase. Therefore a compelling case cannot be made.

Proposed Diverted Footpath

12. My client opposes the creation of a new right of way through his property.

13. The proposed footpath diversion route will impact on the quiet enjoyment of my client's dwelling. The current footpath (Sawbridgeworth 003) traverses to the north and to the back of the dwelling known as Tednambury Farmhouse, which is my client's principal residence – the current route does not impact on the outlook of the house. The proposed replacement route traverses to the south and front of the house to which the dwelling and gardens are orientated. The movement of people in this vicinity, where none currently traverse will have an impact on the view and privacy of the house. The diversion route also passes in closer proximity to the house which increases security concerns.

Alternative Option to Proposed Footpath

14. To access the A1184, we would suggest the existing footpath to continue along the existing towpath and public right of way to the east of the river and traverse north towards Spellbrook Lane, where there is a controlled crossing or to the south towards Kecksys Farm, where there is a suitable bridge across the railway line.

Support

15. Notwithstanding our objections my client supports the proposal to extinguish the existing public right of way.

16. Notwithstanding our objections my client supports the closure of the level crossing.

Request to Attend Hearings and make Representations

17. Savills intends to lodge full Written Representations in due course and requests to make oral representations at the Order hearing or any other hearings which may be held.

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