

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

THE NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER

**SUMMARY PROOF OF EVIDENCE – JERRY GREENWOOD of NETWORK RAIL
LEVEL CROSSING NATIONAL POLICY & STRATEGY**

Date: 16 MAY 2024

1. Introduction

1.1 My name is Jerry Greenwood and I am the Head of Infrastructure Liability for Network Rail Infrastructure Limited (Network Rail).

1.2 My proof of evidence for this Public Inquiry includes consideration of the following matters:

- i. The support of Network Rail generally, for the making of this Transport & Works Order.
- ii. Relevant Network Rail statutory obligations, duties and responsibilities to public safety and operational efficiency under Health and Safety and related legislation, the Railways Act 1993 and the Network Licence.
- iii. Network Rail's policy for level crossing safety and operational efficiency of the network, including evolving public safety standards, Network Rail's Safety Strategy for Level Crossings, appropriate closures and the mitigation of level crossing risk so far is reasonably practical; and the requirement of our Regulator, the Office of Rail and Road (ORR's) for Network Rail to reduce level crossing risk and to promote operational efficiency, wherever possible.
- iv. Instructive comparatives from other level crossing sites, as relate to the consideration of general expediency and safety-related expediency issues, including general mitigation measures.
- v. Deliberate Misuse or the Crossing, and accidental human error, and pedestrian behaviour nationally, as experienced on the railway network, and the incidents that this has given rise to.
- vi. Matters relevant to considering overall expediency, involving the risk to public safety in using the Crossing and in weighing the significance of public safety and operational efficiency, balanced against any impact arising from the proposed closure of the Crossing under the Order.
- vii. The optioneering process that Network Rail is required to follow and how this is managed, giving consideration to Network Rail's core duties and in balancing public safety and operational inefficiency of the wider network against any level of inconvenience optioneering selection may encumber on other parties and stakeholders.
- viii. Network Rail's strategy in optioneering incorporating Cost benefit Analysis and due consideration of Gross Disproportionality in determining whether the cost of implementing a control measure is grossly disproportionate against the reduction in risk that those measures might achieve, which is especially instructive where, as in the case of the Crossing here, it is apparent from the body of objections when viewed as a whole, that there is no (argued) single 'alternative' to closure of the Crossing that is reasonable or practicable.
- ix. In regard of such relative costs, consideration has been given to Network Rail's responsibility to adhere to HM Governments 'Managing Public Money' principles

and the need to justify expenditure in so far as it relates to the alternative measures.

2. Statutorily Reinforced Network Licence Duties and Responsibilities

- 2.1 Network Rail is a regulated statutory undertaker. As the operator and owner of the national rail infrastructure, Network Rail has a fundamental role to play in promoting railway safety and also improving railway performance and efficiency.
- 2.2 Safety is at the very heart of Network Rail's national operational strategy; as a regulated statutory undertaker, Network Rail has a statutorily prescribed duty and key responsibility to promote safety, which also encompasses all those who enter onto railway operational land, and that includes the management of level crossings.
- 2.3 Without incorporating the closure of the Crossing, a higher level of risk would be imported not least to the non-compliance in meeting necessary levels of protection to passenger users of the Crossing. As the Department for Transport and ORR mandate, Network Rail has a prescribed duty of care to promote public user safety of level crossings, and to avoid unacceptable hazards to those who would use them.
- 2.4 As operator and owner of the national rail infrastructure, and against a fundamental requirement for Network Rail to fully adhere to its network Licence, Network Rail has an obvious and critical role to play in improving railway efficiency and a duty to enhance and improve the network in operational terms.
- 2.5 Furthermore, operational inefficiency may arise through a likelihood of delay being caused to other existing train services on neighbouring lines that these services interact with, e.g. the Western Main Line to the south, and the West Coast Mail Line towards Birmingham, as well as other commuter and freight services.
- 2.6 Wide-spread trains delays, as a consequence of trains delayed by the Crossing, can cause major timetable disruption especially where train running capacity is high, as here, and maintaining operational efficiency is dependent on trains running to time and keeping to the line-speed, within their timetabled slots. Adherence to the timetable is critical in maintaining operational efficiency.
- 2.7 The public use of high-risk level crossings leading to the occurrence of train strikes, near miss incidents and also trespass, can therefore significantly jeopardise the operational efficiency and capacity of the wider railway network, often with consequential impacts much further afield, contrary to Network Rail's general duty and its requirements under its operating licence.

3. Office of Rail and Road

- 3.1 As I explain in my proof by reference to Network Rail and ORR publications, ORR endorses the closure of level crossings where there is Network Rail-assessed risk to public safety and where there is no other suitably viable option to adequately overcome or mitigate such risk.

4. Rail Safety and Standards Board

- 4.1 RSSB holds Industry Standards and Guidance specifically relating to Leading Health & Safety on Britain's Railways, which incorporates stations and level crossing safety, which Network Rail is required to comply with.
- 4.2 The Board also leads into research in public safety, public behaviour and near-miss reporting, including the development of complex algorithms for the ALCRM Risk Tool, all of which fuels Network Rail's policy and strategy for managing level crossings.

5. Network Rail's Safety Strategy for Level Crossings

- 5.1 Network Rail's duty under Health and Safety legislation includes a responsibility for users of the Crossing, so far as is reasonably practicable. Network Rail is firmly committed to eliminating accidental fatalities across all its level crossing estate. This is an established, long-term strategy, aligned with RSSB's strategy that sees improved safety at level crossings as one of its 12 key priorities.
- 5.2 Effective risk management includes reducing the number of active open level crossings; closure of level crossings has been proven to be the most effective way of removing this risk from the network. It reduces safety risk to the public, passengers and our workforce whilst enables reducing operational and financial risk across the Network and allows for increased rail capacity and performance.
- 5.3 Network Rail's commitment is to seek ways to continually improve our risk assessment processes so that emerging human factors risks, and other hazards are fully incorporated within core risk management activity.

6. The Expert Assessment of Level Crossings

- 6.1 The Order, if made, would give statutory authority for the Crossing to be closed, thereby promoting public safety of those who would otherwise use it, as well as achieving the operational efficiencies that will enable future rail capacity enhancements to be implemented, without limitations.
- 6.2 Indeed, DfT mandates that where there is a change in railway operations, such as the proposed change to the current timetable, enhancements in railway services and linespeed, where each would potentially have an impact on the risk to public safety of users of a level crossing, that a new assessment is undertaken to identify the increase in risk and how this can be mitigated against cost.
- 6.3 Ian Aston's expert analysis supports the finding that the risk to public use of the Crossing will considerably increase if it was reopened as the sole means of accessing Platform 2 as a Station Passenger Crossing and from the combined effects of the aspiration to introduce more train services against the likely vulnerable user profiles.
- 6.4 Assessment has also been made without factoring into account the impact of inevitable future residential development that will (or could) subsequently occur in later years in

the vicinity of the Crossing – both in terms of the number of likely traverses and likely change in user profile.

7. Optioneering and Site-Specific Expenditure

- 7.1 It is clear from the Proofs provided by my colleagues that suitable alternative options have been robustly considered and tested, before the preferred option was accepted into the draft Order.
- 7.2 The option selected for the Order has since been further tested, giving due consideration of the imported risk against risk mitigation and cost, the optioneering that would be undertaken when considering options as part of the IAR process, when Cost Business Analysis and Gross Disproportionality is applied.
- 7.3 As a government funded organisation, the 'Managing Public Money' principles apply. Network Rail must therefore always ensure that it manages public money responsibly. DfT has made it clear that Network Rail must comprehensively consider the cost of implementing risk control measures against the reduction in risk those measures might achieve.

8. Deliberate Misuse and Accidental Human Error

- 8.1 Pedestrians are ultimately responsible for their own safety and level crossing Users are expected to use reasonable vigilance to satisfy themselves that no trains are approaching before they start to cross the line. They should remain alert while crossing.
- 8.2 However, the Crossing has a history of misuse, with 7 serious events over the last 12 months prior to its closure. In addition, it is also known that some horse riders do not use the telephones that are provided for their own safety.
- 8.3 Misuse, and serious errors of judgement arise from its use as a Station Passenger Crossing, with events seen where passengers run across the Crossing without regard for their safety because their train is standing at the platform, and where passengers have alighted and try to cross before the train leaves the station, rather than waiting for it to leave the station and clear the crossing. They focus on watching the train in the station and do not look in the opposite direction where a second train may be approaching.
- 8.4 Network Rail has broad duties under its network Licence to comply with RSSB and its standards, to mitigate deliberate misuse and errors of judgement at its level crossings.

9. Vulnerable and Encumbered Users

- 9.1 ORR highlights the need to understand all level crossing users and to ensure all foreseeable hazards are identified; our policy and strategy recognises this and includes identifying risk mitigation to vulnerable and encumbered users of level crossings. The objective treatment of 'vulnerability' within the specific, expert context of level crossing assessment of user safety, is fundamental.

- 9.2 The risk to vulnerable users and risk management by Network Rail, through an authoritative means of assessment, is endorsed by the Industry and has also been repeatedly endorsed by both the Secretary of State and Inspectors at Public Inquiries.

10. Fatalities and Near-Miss events

- 10.1 A fatality has occurred at this crossing, on 31 March 2008. Several near Miss events also occurred thereafter, which could easily have resulted in further fatalities at the Crossing. These were the driver for the Crossing being closed under a TTRO until the risk to Crossing users could be mitigated.
- 10.2 The RSSB records that 77% of all accidental level crossing fatalities involve pedestrian users, with the remaining 23% made up by vehicle occupants (drivers and passengers).
- 10.3 Alarming, over the past 5 years, there has been a worsening trend of (reported) 'near misses' involving non-vehicular users. Ian Prosser, CBE ORR's HM Chief Inspector of Railways stated in a media release September 2021: *"It is unfortunate that despite fewer trains running on the network in the last year we have seen an increase in the number of deaths at level crossings."*
- 10.4 Network Rail continues to see a high number of reported non-vehicular near miss events to regularly exceed 30 events each month; the highest level of consistent period on period reporting since it began in 2009/10. Ian Prosser also stated during his press release: *"I remain concerned about the increase in near misses with trains that often pass through at very high speeds. This past year we have seen shocking CCTV footage of reckless behaviour at level crossings and I cannot stress enough the danger people are putting themselves in when not using a crossing safely."*

11. Conclusion

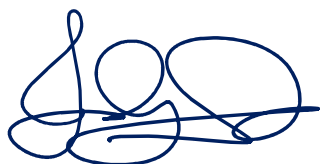
- 11.1 It is my clear opinion that the proper application of Network Rail's governing policy, legal duties and responsibilities, and Licence, together with all other relevant standards advocated by ORR and by relevant rail industry bodies, together reinforce the case for the closure and removal of the Crossing.
- 11.2 The overview I set out in my Proof of governing strategic policy, viewed against the background of the relevant statutory framework, compliments Network Rail's assessment of the safety risk that is presented by the Crossing, when taking full account of all reasonably practicable mitigations.
- 11.3 For the reasons given above and across the evidence of my colleagues, Network Rail is strongly of the view that the circumstances at the Crossing, viewed both in safety-specific terms and in overall terms, is strongly supportive of the Order being made.
- 11.4 Accordingly, for all of the reasons given on behalf of Network Rail across all of its evidence, Network Rail will respectfully invite the Inspector to make the Order.

Witness Declaration

I have declared as follows:

- i. This Summary Proof includes all facts which I regard as being relevant to the opinions that I have expressed in my full Proof of Evidence and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.
- ii. I believe the facts that I have stated in this Summary Proof are true and that the opinions expressed are correct.
- iii. I understand my duty to the Inquiry to help it with matters within my expertise and I have complied with that duty.

Signed:



Dated: 16 May 2024

Jerry Greenwood

Head of Infrastructure Liability, Network Rail