

Anglia Level Crossings – Cambridgeshire

Transport & Works Act statutory tests

Extracts from the Transport & Works Act 1992

<http://www.legislation.gov.uk/ukpga/1992/42/contents>

The authorising power

1-(1) The Secretary of State may make an order relating to, or to matters ancillary to, the construction or operation of a transport system of any of the following kinds, so far as it is in England and Wales—

(a) a railway;...

Schedule 1 to the Act provides that the matters to be considered within Section 1 of the Act above are: ...

4--The creation and extinguishment of rights over land (including rights of navigation over water), whether compulsorily or by agreement.

The key legal test

5-(6) An order under section 1 or 3 above shall not extinguish any public right of way over land unless the Secretary of State is satisfied—

(a) that an alternative right of way has been or will be provided, or

(b) that the provision of an alternative right of way is not required.

How representations are taken into consideration

10-(2) Subject to the following provisions of this section, the Secretary of State shall not make a determination under section 13(1) below to make an order without first taking into consideration the grounds of any objection in respect of which rules under this section have been complied with.

10-(3) If an objection is withdrawn or appears to the Secretary of State—

(a) to be frivolous or trivial, or

(b) to relate to matters which fall to be determined by a tribunal concerned with the assessment of compensation, he may make a determination under section 13(1) below without further consideration of the objection

The Government's *Guide to TWA Procedures*

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/4502/procedures-guide.pdf