

The Proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order

Cambridgeshire County Council Formal Response – Representations and Objections

1 Introduction

- 1.1 This document provides Cambridgeshire County Council's formal, full response to the proposed Network Rail (Cambridgeshire Level Crossing Reduction) Order ('the Order') deposited on 14th March 2017 for public consultation. The County Council ('CCC') made a holding response to the Secretary of State on 19th April 2017 in accordance with s239 Local Government Act 1972, as it was not able to respond within the required timescale due to purdah for local elections.
- 1.2 CCC recognises Network Rail's ('NR') strategic reasons for the proposed Order as part of its wider Anglia Level Crossing Reduction Strategy ('ALRCS'), and supports in principle the ambition of increasing public safety, improving journey times, and developing the transport network to accommodate growing demand and to encourage more sustainable travel choices. CCC has similar duties and responsibilities regarding the safety, accessibility and sustainability of the highway network. The changes proposed principally, and significantly, affect the highway network for which CCC is the Highway Authority ('HA'). However, CCC observes that this is also an asset-reduction exercise, and believes that NR needs to understand that its proposals would, in many cases, increase liability for the HA without necessarily improving safety.
- 1.3 CCC's position is that NR must have sound justification for any diminution of the highway network on grounds of safety, efficiency and long term impact on public health. CCC is, in principle, willing to accept the loss of some routes, where the case is proved on these grounds and where it is acceptable to communities. However, good alternative routes need to be provided that: are reasonably convenient and at least as enjoyable for users; maintain or encourage good health habits; do not add unreasonable liability to the HA; and do not put users more at risk than on the existing routes. CCC believes there needs to be a balanced approach if the two organisations are to work in partnership towards improving both transport systems for the benefit of the public.

2. Approach to the TWAO

- 2.1 CCC has significant concerns over NR's approach to this Order, as set out below.

Evidence base

- 2.2 NR's reasons for the proposed Order are cited at NR4 of its Application. CCC understands that the purpose of the ALRCS is to improve safety; allow Network Rail to more effectively manage its assets in the Anglia Region; reduce the ongoing maintenance liability of the railway and help enable various separate enhancement schemes to be developed in the future for the benefit of passengers and other highway users. It is understood that this is based on crossing risk scores, cost of maintenance,

legal status, operational requirements, and the potential for future improvement of a line.

- 2.3 However, CCC observes that there is no new scheme or works in connection with a scheme as envisaged by the Transport & Works Act 1992 ('the TWA') under which the Order is drafted, except for C31 Littleport Station. CCC has raised concerns with some of NR's methodology in relation to the Order. In particular, the diversity impact assessment ('DIA') was only a scoping opinion and the parameters were considerably narrower than CCC would apply to any diversion application, particularly one related to development. The analysis did not appear to take into account CCC's Rights of Way Improvement Plan policy 2016 ('ROWIP')¹, its Policy on Public Path Order Applications to divert or extinguish footpaths and bridleways (Document A); the Cambridgeshire Health & Well Being Strategy 2012-17 ('the CHWBS')² and the Joint Needs Assessment Strategy ('JSNA')³, which identifies the future care needs for the health and wellbeing of the county's population and strategic delivery. The health benefits of easy access to the countryside are well-evidenced in these and other documents⁴, and public rights of way ('PROW') also support the economy through rural tourism and reducing the NHS bill. In February 2017, CCC also adopted a new NMU Adoption Policy, which sets out CCC's criteria and score which all proposals must achieve in order for the County Council to accept them⁵. The criteria incorporate the standard legal tests, public health, sustainable transport, safety and asset management tests.
- 2.4 The CHWBS, JSNA and ROWIP work with CCC's Business Plan 2017-18⁶ to:
- Support older people to be independent, safe and well.
 - Encourage healthy lifestyles and behaviours in all actions and activities while respecting people's personal choices.
 - Create a safe environment and help to build strong communities, wellbeing and mental health.
 - Create a sustainable environment in which communities can flourish.
- 2.5 Using data from the JSNA is particularly important when looking at the impacts in the Fenland area, which tends to have poorer health outcomes and a shortage of networks of public rights of way (PROW).
- 2.6 According to NR's risk assessment data for each crossing available online⁷, there were only four recorded incidents across the 24 public crossings in the Order. CCC was not made aware of those incidents at the time they occurred, and although details have been requested they have not been received. CCC will continue to seek this

¹ <https://www.cambridgeshire.gov.uk/residents/travel-roads-and-parking/transport-plans-and-policies/local-transport-plan/>

² <https://www.cambridgeshire.gov.uk/residents/be-well/cambridgeshire-health-and-wellbeing-board/>

³ <http://cambridgeshireinsight.org.uk/JSNA>

⁴ See for example Department of Health, *At least five a week: evidence on the impact of physical activity and its relationship to health – a report from the Chief Medical Officer*, 2004

⁵ See Appendix 8 of the Highway Infrastructure Asset Management Plan at <https://www.cambridgeshire.gov.uk/residents/travel-roads-and-parking/transport-plans-and-policies/transport-delivery-plan-and-highway-policies/>

⁶ <https://www.cambridgeshire.gov.uk/council/finance-and-budget/business-plans/>

⁷ <http://archive.nr.co.uk/transparency/level-crossings/?View=onMap&postcode=0&radius=0>

information. The issues most cited as risk factors are sun glare and frequent trains, with 'Deliberate misuse or user error' also being cited. However, the last factor does not appear to relate to actual incidents recorded, and without detailed information it is impossible to know what the problem actually was or is. CCC's concern is that problems could be associated with poor crossing infrastructure, which, if improved, would reduce risk and user error. CCC has repeatedly requested NR to improve crossing infrastructure, particularly changing stiles to gates which makes it easier for users to more quickly exit from the railway environment, particularly if they have dogs and children. However NR has been extremely reluctant to do so. In addition, surfaces are often poorly laid, if they exist at all, and few PROW crossings have any assistive technology such as lights or whistleboards.

- 2.7 The proposed alternative routes are often to existing road crossings, which have a worse incident record and increase safety risk, because they require vulnerable users to mix with vehicular traffic, including HGVs. CCC's road safety team has not been consulted as CCC requested, and would raise issues with a number of the proposals. At present, few of NR's proposals actually meet CCC's NMU Adoption Policy.
- 2.8 Further, CCC considered that NR's traffic censuses, undertaken in June 2016 to inform NR's decision-making, to be seriously flawed. This was because it was based on an urban methodology unsuitable for the rural nature of the Cambridgeshire paths, and because several crossings were obstructed by NR works during the census period. The County Council wrote to NR and their contractor on the 15th July 2016 setting out its concerns in detail. It was also not clear how the results were going to be used in assessing which crossings were proposed for closure. Although some of the censuses were repeated, most of the issues raised have not been addressed, calling into question the validity of the results and subsequent decisions to proceed with the proposals.

Use of the Transport & Works Act & Resourcing

- 2.9 CCC observes that, by seeking changes to the highway network through a TWA, NR have been able to avoid paying fees to CCC that would be associated with usual applications under the specific provisions of s118A and s119A Highways Act 1980 for rail crossing extinguishments and diversions respectively. These contain appropriate tests to ensure that the PROW concerned are properly considered, and provisions to protect highway authorities in terms of ongoing maintenance liability and to ensure that the changes are accurately effected on the Definitive Map & Statement ('DM&S') (the legal record of PROW). The TWA contains little in the way of such provisions.
- 2.10 Resourcing for a major public inquiry is significant, and might not have been necessary had individual applications been made under the HA80. Further, we note that NR cited in its letter to the Ramblers' Association on 15th November 2016 (see Document B) that a benefit of using a TWA is that: 'The workload on highway authorities is reduced. Network Rail prepares all the paperwork and runs the consultation events.'
- 2.11 The workload on HAs is increased rather than reduced. We have not been able to programme the work or recover costs, and the significant problems with the lack of consultation, poor communication, and inadequate methodology have meant that

officers have had to be proactive in endeavouring to rectify these problems. For a project of this size, the HA would normally have commissioned a dedicated project officer. However, because CCC has not been able to recover its costs, this has not been possible. Time has been diverted to the above problems, and it has not been able to dedicate the usual amount of attention that it would to a public path order proposal, potentially affecting the quality of the outcome and associated long term implications for users and CCC. It is estimated that the cost to CCC will be well over £100,000 by the end of the project.

- 2.12 The Department for Transport ('DfT') is funding officer time spent working with Highways England on the delivery of the A14 road scheme. On 21st March 2017 CCC asked NR to discuss a similar agreement for the delivery of NR's TWAO in order to enable the Authority to recover its costs associated with NR's scheme. NR has not yet responded to this request.
- 2.13 Given that this the first time that the TWA is being used for this purpose, it is in the interest of all stakeholders affected that they are able to have confidence in the ultimate decision, and that the possibility of challenge (at further expense) is avoided. CCC therefore requests:
- a) That an experienced Rights of Way Inspector should be appointed to determining the Order at Inquiry, or, alternatively, a panel of two inspectors including one from the Rights of Way team;
 - b) The application of analogous tests in accordance with the *Guide* at p105;
 - c) That additional provisions are included enabling detailed design by agreement with the HA; certification; and the accurate recording of the changes on the DM&S, as set out at 3.2, 3.5 and 3.17 below; and
 - d) That, in addition to the requirement for commuted sums, dealt with at 3.7 below, NR reimburses CCC for its time in agreeing the detailed design; certification; and LEMOs as set out at 3.2, 3.5 and 3.20 below.

Stakeholder Communication

- 2.14 CCC welcomes the engagement that NR and its contractors have made with all stakeholders to work on the proposals, and the public consultations that have been undertaken. However, communication with stakeholders has been variable, with an apparent lack of resource making it difficult for CCC to make progress with the proposals and to manage customer enquiries. This has meant that CCC has been unable to analyse the implications for a number of the proposals.
- 2.15 CCC is aware that similar proposals are being taken forward separately in neighbouring Suffolk and Essex. However, this is an Anglia-wide scheme, and usage does not recognise the administrative boundaries. CCC, Suffolk County Council, Essex County Council and Hertfordshire County Council have endeavoured to engage over common issues, but it would have been easier for all had NR taken a co-ordinated approach.
- 2.16 Notwithstanding the above problems, CCC continues to work with NR in the interest of optimising the outcome for users of both the highway and broader transport networks.

Whilst CCC in principle supports some of the proposals, to date it considers there to be a significant number that it cannot support. These are detailed below in section 4.

3 General principles in the TWAO

- 3.1 CCC wishes to raise a number of general principles arising from the Order that are of significant concern.

Maintenance – acceptance of new routes

- 3.2 CCC will not agree to take on any new routes before commuted sums, as-constructed asset records, Agreement In Principle, and certification have been agreed. This is comparable to what has been agreed with DfT for the A14 scheme, and to what happens for public path order applications under the Highways Act 1980 and the Town & Country Planning Act 1990 ('PPO applications'). The reasons are set out in more detail below.
- 3.3 Article 16(1) of the draft Order provides for NR to maintain the new routes and works for a period of 12 months. Article 16(11) provides that the new highways are to be completed to the reasonable satisfaction of the HA, and are to be maintained by and at the expense of NR for 12 months from their completion, after which they are to be maintained at the expense of the HA. CCC has to respond within 28 days of receiving a request for certification that it is satisfied with the works, or else the new highways will be treated as complete.
- 3.4 With PPO applications, it is usual for the highway authority to inspect the proposed alternative route with the landowner and to agree the suitability of the route, and any works that might be necessary. The TWAO process means that officers have not been able to visit many of the proposed new routes with the landowner to assess practical issues. Therefore CCC objects to article 16(1) and 16(11) on grounds that these provisions are insufficient to ensure that the new assets will be adequate for the purpose and ongoing maintenance. CCC requests that a new clause be inserted into article 16 to enable CCC to make pre-works inspections with NR to agree the works and design prior to construction. Technical approval in principle ('AIP') to the Design Manual for Roads & Bridges and other design principles agreed with CCC must be agreed before NR proceeds with any works.

Certification of new routes

- 3.5 The 28 days set out in article 16(11) is insufficient for the highway authority to undertake the necessary inspections and administrative work. This would equate to more than one site a day, and the sites are spread wide across the county, with many requiring a long walk to reach them. As we do not know the programme of works, CCC does not wish to be committed to requirements it may simply not be able to meet. Therefore CCC considers it reasonable to request that the 28 days be amended to 56 days.
- 3.6 CCC also notes that there is provision for arbitration in article 40. Whilst this provision is acceptable in itself, CCC is concerned that articles 16(11) and 40 are insufficient to explain the mechanism as to what happens if CCC reasonably refuses to certify

because the works are unsatisfactory. Therefore we object to article 16(11) and request that it be expanded to clarify the mechanism.

Commuted sums

3.7 Normally with rail crossing path diversions under the Highways Act, NR would be liable to maintain the new routes in perpetuity. The TWA covers compensation for private landowners, but is silent on compensation and ongoing maintenance provision for highway authorities, except for the limited provision in article 16(1). NR held an initial meeting with CCC regarding commuted sums on the 17th January 2017. As this matter affects all the highway authorities concerned with NR's three orders, principles were agreed at a meeting of the regional Rights of Way ADEPT including Suffolk, Essex, Hertfordshire and Cambridgeshire County Councils shortly afterwards. These principles are that it is reasonable to require NR to pay commuted sums for:

- The ongoing maintenance of new structures, length of network and associated new street infrastructure in excess of the amount of CCC's existing assets.
- 1x replacement of PROW bridges plus remedial works @ 25% cost of initial works
- Other structures to the Structures ADEPT formula, e.g. steps and ramps

3.8 CCC therefore **objects** to this element of the Order and requests that NR agrees with CCC the commuted sum packages before any construction work commences.

Infrastructure & design principles

3.9 NR's design guide is set out at NR12 of its Application. It was based on discussions that took place in October 2016. Unfortunately, several routes and therefore design had not been agreed at that stage. There are thus a number of issues that need resolving.

Gaps, gates, stiles

3.10 BS5709:2006 sets out the order of preference for infrastructure on PROW. It is based on the principle that access should start with the least restrictive, being a gap; then a gate, and lastly a stile. Stiles are obstructive not only for wheel-chair users but also for those with hip and knee problems, and for dogs. CCC has been working for decades to remove stiles on the network in accordance with the BS and Equality Act 2010. There is a long-standing problem with the use of stiles on NR's crossings where gates would resolve accessibility and safety issues.

Surfaces

3.11 CCC requests that the following design principles be agreed:

- Where private crossings are closed and agricultural traffic is diverted to public roads or rights of way, the latter are to be brought up to standard in order to enable them to take the immediate additional wear and tear. Passing places on narrow roads should be installed.
- Where byways are diverted or will be subject to additional wear and tear, they should be built to a Forestry Commission track-style specification.

- 3.12 CCC therefore **objects** to crossing closures C27, C33, C34 and C35 and the proposed alternative routes on this basis and requests that NR agree with us these design principles.

Fences and landscaping

- 3.13 Fencing has been included in a number of the proposals in the Order. It is not clear at this stage where it is proposed to locate the fencing. CCC has, in discussion, requested that any fences are located a minimum of 0.5 metres away from the legal boundary of all new routes. This is because placing a fence on the boundary soon starts to cause maintenance problems. The HA is not responsible for fencing, but it is our experience that NR do not maintain the vegetation that quickly grows up/out from it, restricting access. Machinery cannot tackle vegetation wound around fencing, requiring expensive handwork. This causes an additional burden on the highway authority. The clearance of overhanging vegetation would also be a NR responsibility that could be enforced by the HA (HA80 s154) – this increased burden on NR could be avoided if fencing placed further back.
- 3.14 Similarly, any landscaping planting should be set back a minimum of 2m from the legal boundary of all new highways, in accordance with CCC's *Guidance for developers & planners*⁸ to prevent obstruction and an unnecessary enforcement burden on CCC.

Haul routes

- 3.15 CCC is not yet aware of NR's intention with regard to access for works. As a general principle, PROW should not be used as haul routes for works, due to the arising wear and tear (it is an offence under s1 Criminal Damage Act 1971). Any proposed use should be agreed with CCC in advance, in order that mitigating works can be agreed.

TTROs

- 3.16 CCC notes that, by virtue of article 32, Part 4 that NR is responsible for making any such Temporary Traffic Regulation Orders ('TTROs') as are required. CCC welcomes the provision that NR will be required to consult CCC as the Traffic Authority on such orders.

Legal issues

Widths& Grid References

- 3.17 DEFRA Circular 1/09, Annex C, paragraph 9, relating to public path and rail crossing orders, states that the width of a path should be included in the any public path order schedule. The authority for this is the Public Path Order Regulations 1993, the Town & Country Planning (Public Path Order) Regulations 1993 and the Wildlife & Countryside Act (Definitive Maps & Statements) Regulations 1993. The Planning Inspectorate Rights of Way Advice Note 2016⁹ states:

⁸ <https://www.cambridgeshire.gov.uk/residents/libraries-leisure-&-culture/arts-green-spaces-&-activities/definitive-map-and-statement/>

⁹

https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/516940/public_advice_note_16_Widths_6th_revision_April_2016.pdf

4. Both public path orders and rail crossing orders involve the express creation of new rights of way. As such, the width of the new way should be determined as part of the order making process. Where an order is received without a specified width, the Inspector may, where appropriate, use his power of modification to add one. If this is not appropriate, the Inspector may refuse to confirm the order.

3.18 CCC's policy for new routes is a minimum of 2m for footpaths and 4m for bridleways in accordance with national practice (see Document D). The national minimum for a BOAT is 5m.

3.19 Highway authorities are also required by the same statutes to include Ordnance Survey grid references in all orders. Although Schedule 2 column (4) in the TWAO is entitled 'Status and extent of highway', this only deals with the start and end point by letters annotated on the plans. 2.4.2-2.4.3 of the Design Guide at NR12 of the Application cites that new footpaths are to be 2m wide, and bridleways 3m. However, the Design Guide is not a legal event sufficient for the purposes of the DM&S. Neither the TWAO nor the EIA contain any proposed widths or OSGRs. CCC **objects** to the lack of widths and OSGRs in the TWAO, and requires that they be inserted into Schedule 2 column (4), in order to enable it to comply with its statutory duties. CCC further **objects** to the proposed 3m width for bridleways. This is inadequate; CCC policy is 4m, particularly if routes are to be fenced on one or more sides. The British Horse Society prefer 5m.

Changes to the DM&S – Legal Event Modification Orders required

3.20 When any changes are made to PROW recorded on the DM&S through a public path or other order, an HA is required, under s53 Wildlife & Countryside Act 1981, to make a subsequent 'legal event modification order' ('LEMO') to make the changes legally effective on the actual record. The initial order is not sufficient in itself. Therefore every change arising from NR's TWAO will require a LEMO. These Orders also have to contain widths and OSGRs, and so CCC again **objects** to this missing information in the Order.

3.21 Further, it is CCC's policy to recover its costs from applicants for the LEMOs arising from PPO applications, in accordance with its published Schedule of Charges¹⁰. CCC therefore requests that NR are similarly required to pay for the legal orders required at the market rate. There is precedence for this with Highways England paying for all LEMOs arising from the current A14 scheme.

BOATs – UCRs status

3.22 At Schedule 14 of the draft Order it is cited that two unclassified roads ('UCRs') are to be redesignated as byways open to all traffic ('BOATs') (crossings C27 Poplar Drove in March and C30 Westley Bottom Road in Westley Waterless). CCC does not believe that this is legally possible, because a BOAT is legally a public carriageway, defined by section 66(1) of the Wildlife and Countryside Act 1981 as:

¹⁰ <https://www.cambridgeshire.gov.uk/business/highway-searches/>

“a highway over which the public have a right of way for vehicular and all other kinds of traffic, but which is used by the public mainly for the purpose for which footpaths and bridleways are so used”.

- 3.23 As the two UCRs in question are public carriageways, the only real difference between the two categories relates to maintenance liability, whereby HAs only have to maintain BOATs commensurate with their use. As NR is responsible for the level crossings, it is assumed that they consider this will somehow benefit their asset management. However, as private vehicular rights will still remain over both crossings, it is difficult to see what benefit the change in status would bring. The only change in rights that is desired is to prohibit vehicles with more than two wheels from using the crossing, which will be achieved in both instances through the application of a Traffic Regulation Order.
- 3.24 Changing the status would require more LEMOs, and is, in CCC's opinion, administratively unnecessary and legally awkward at best. Therefore CCC **objects** to these redesignations as a point of principle and requests that they be removed from the Order.

Planning conditions

- 3.23 NR have applied to SoSdFT for planning permission for certain works under Rule 10(6) of the TWA Rules 2006 (Tab NR10 in NR's Application). CCC **objects** to NR's request that approval for detailed design and external appearance for footbridges be approved only by the local planning authority ('the LPA'). First, there is also a bridle bridge being proposed. Second, such standard bridges are not normally subject to planning permission. Thirdly, obtaining planning permission will not necessarily make a bridge acceptable to the HA, and all structures must ultimately be approved by the HA. If the condition is needed, it should be amended to:
- 'No development for a footbridge shall commence until written details of its design... have been submitted in writing for prior approval by the highway authority and may then be submitted in writing to and approved by the local planning authority.'
- 3.24 Similarly, CCC **objects** to the request for landscaping approval due to the reasons set out at 3.13-3.14 above. The condition should be modified to say that the location of any proposed boundary treatment, including planting and fencing, for all routes should be agreed in writing with the HA before submission to the LPA.
- 3.25 CCC further requests a condition requiring that no development shall commence until haul roads affecting public rights of way have been agreed in writing with the HA, for the reasons cited at 3.15 above.

4 Individual Crossing Objections

4.1 C04 No Name No. 20, FP10 Meldreth

CCC **objects** to the proposed closure of this popular crossing, as the alternative route is less safe for users than the existing route, and involves a lengthy diversion. NR point

out there has been deliberate mis-use or user error, but NR's online summary of risk assessment does not identify any incidents.

- 4.2 The alternative route takes users past active poultry farm units, bringing them into conflict with busy HGV movements, and onto a narrow, unlit footway on Station Road near the summit of bridge. The width would not allow users to pass side-by-side without stepping into the carriageway, and would particularly affect wheelchair and pushchair users. The lack of a good footway is a known problem to local residents. It removes a pleasant off-road countryside circular route linking to Bury Lane byway and other footpaths. The path also links directly to the Bury Lane Farmshop. The majority of responses in the public consultations objected to closure, together with the County Councillor, the Parish Council and the MP.
- 4.3 CCC consider that the existing route is safer than the proposed route, and that more could be done to make the crossing safer if required, such as a whistleboard and miniature crossing lights and enable retention of the path.

C07 No Name No. 37, FP4 Harston

- 4.4 The existing footpath enables a safe off-road walking, linking with a multi-user path in the verge towards the village of Newton. It is accessible to all, as there are only gates on the railway crossing. It links to a popular nearby path leading to the Wade monument.
- 4.5 Whilst the benefit of the additional utility link in the road verge towards Newton is welcomed, overall the proposed solution is unsatisfactory, because takes away an easy country path, replacing it with a considerably less enjoyable, more complex path that cannot be used by all abilities. It is significantly worse for the less able, due to the introduction of five major hazard points where there was previously only one, namely the railway crossing. The new hazards comprise two long (6m) flights of steps and three crossings over a byway and a busy B road, including on-road walking at a dangerous pinch point over the railway bridge.
- 4.6 The area is likely to see an increase in demand for countryside access, due to a large new housing development in Hauxton just to the north of Harston and a 500 unit care home. CCC requested a bridleway link on field-side of hedge north of road linking directly to BOAT 3 Harston (Donkey Lane) as mitigation for loss of the countryside path. This would support section 106-funded countryside access from the major Cambridge Southern Fringe development north of Hauxton.
- 4.7 Closure of this path could result in a negative impact on user behaviour away from physical activity, with associated impact on mental health.
- 4.8 The alternative would involve significantly greater asset liability due to the steps and additional length of off-road and verge path. There are no recorded incidents on this crossing. CCC **objects** to this proposal.

C08 Ely North Junction, FP11 Ely

- 4.9 This path is the gateway to the countryside north of the growing city of Ely. The path network has been cited in recent large housing developments as an important amenity.

The proposed width of 1.5m for the northernmost section of the proposed alternative does not comply with the County Council's adopted policy for diverted paths, which is an unobstructed 2m. Fencing means that maintenance would be constrained, costing CCC, as set out at 3.13 above. The proposal achieves 20% in CCC's NMU Adoption scoring criteria (the threshold is 70%).

- 4.10 CCC therefore **objects** to the proposal as it stands. Should the width issue be resolved, CCC will withdraw its objection. The proposed retention of the dead-end eastern section represents an additional maintenance burden but CCC reluctantly agrees to retain it on the basis of its public benefit for local ecological and historical interest, and dog walks. This is on the proviso that the width issue is resolved, and that the extent is agreed on the basis of consultation with local users, as cited to NR in CCC's letter of 21st March 2017.

C11 Furlong Drove, BOAT 33 Little Downham

- 4.11 CCC **objects** to the proposed closure of this BOAT, as the alternative involves long and unpleasant diversions of up to 1.5km for vulnerable users on narrow roads with heavy haulage. The BOAT is a pleasant off-road route which afford equestrians a rare 2km gallop. It also forms part of the long distance promoted path known as 'The Hereward Way', and runs between Little Downham and Welney at the Washes. No incidents have been recorded at the crossing. CCC is aware that the Trail Riders Fellowship ('the TRF'), the British Horse Society ('BHS') and the Ramblers' Association all object to closure of the route.
- 4.12 CCC Accident Investigation's initial comments are that the alternative on-road route is unsuitable for equestrians because the road is so narrow; the verges are unsuitable refuges due to variability in width and uneven surfaces, which could result in horses pitching their riders into the ditches or the road. They are also likely to be startled by heavy agricultural haulage. The alternative eastern route in particular is less safe than the existing route. The pedestrian lines on the alternative road level crossing at Main Drove go into rail infrastructure on either side, and there is no refuge. The crossing also needs work to better forward visibility as it is on a bend.
- 4.13 CCC would prefer the crossing to be formalised with a Traffic Regulation Order ('TRO') to retain connectivity for all NMUs and motorcyclists. The crossing could be realigned to make it perpendicular and thus safer to cross.
- 4.14 If the SoSDfT decides against CCC's position, CCC considers that it would be reasonable for BOAT 33 to remain at that status to the north of the railway, and for proposed bridleway link to be upgraded to BOAT to retain connectivity for motorcyclists, with or without a Traffic Regulation Order ('TRO') over this section. In order to retain connectivity and avoid the creation of a cul-de-sac, CCC in earlier consultations requested a link from the southern section to run west and join with BOATs 34 and 35, but NR considered this was not possible. CCC requests that this be reconsidered.

C13 Middle Drove, March

- 4.15 CCC does not object in principle to public rights being downgraded to bridleway status, and welcomes the retention of the miniature warning lights and telephone. However, it is concerned to protect its ability to access the highway on either side for maintenance purposes. CCC therefore **objects** to the lack of provision in the Order of private rights of access for CCC for future maintenance purposes, and requests that CCC is granted these rights as a registered user.

C16 Prickwillow 1, FP17 Ely

- 4.16 The proposed closure of this crossing and alternative using steps down the steep flood bank will significantly increase maintenance liability for CCC, because (i) of the introduction of two flights of steps and (ii) the fact that, currently, CCC's mowing contractor can drive over the crossing and continue along the bank. With the crossing closed and the steps in place, this will no longer be possible. Whilst it will be acceptable for the contractor to retrace his steps on the southern side, it is unreasonable to expect this on the northern side due to the long distance of several kilometres to the nearest ramped public access. This will significantly hinder maintenance and increase the time spent on the job. CCC has consistently requested that a ramp with private rights of access be provided in mitigation. It is apparent from the Order and proposed works on p39 f NR12 that this has not been provided.
- 4.17 Therefore, whilst CCC does not object to the closure and diversion of public rights via steps, it does **object** to the proposal on grounds of unreasonable increase in maintenance burden on the HA, and requests that the Order makes provision for a maintenance ramp with private rights of access to be built as near as possible to the steps on the northern side.

C17 Prickwillow 2, FP57 Ely

- 4.18 The issues with this proposal are the same as for C16 Prickwillow 1, FP17 Ely. CCC **objects** to the proposal on grounds of unreasonable increase in maintenance burden on the HA, and requests that the Order makes provision for a maintenance ramp with private rights of access to be built as near as possible to the steps on the northern side.

C20 Leonards, FP101 Soham

- 4.19 CCC **objects** to this proposal on the basis that the alternative route is not a suitable replacement because:
- The majority of users travel from the south, making circular routes with South Horse Fen Common and the popular 'Wicken Walks'. People walk to the pub in Wicken to the south-west. The alternative route is two and a half times as long for these users (rising from 200m to 555m).
 - Local opinion is that the enjoyment of these users would be significantly affected by the closure.
 - NR has recently invested in the crossing with new gates, and the County Council has recently installed two new bridges, none of which could be reused on the new route.

Closure would therefore represent a waste of resources at a time of scarce public resource.

- There are no recorded safety incidents. It is a long, straight stretch of line. The crossing is close enough to the Mill Drove road crossing that footpath users may be able to hear the automated warning sounds from the road crossing when a train is approaching.
- In addition, the Ramblers consider that the approach along FP114 would be unattractive, as it traverses a heavy clay field.

4.20 Should the Secretary of State allow the proposal, CCC would offer an alternative solution that would make the proposal more acceptable to the County Council and stakeholders.

C24 Cross Keys, FP50 Ely

4.21 CCC has welcomed the response to objections from the public to the proposals for C10 Second Drove, Ely, C23 Adelaide and C24 Cross Keys, which needed to be viewed as a package due to the impact of the wider network. The improved solutions negotiated were vital in order to ensure that this important amenity for the well-being of local residents was retained. The mitigating solutions already require two additional steel/timber footbridges, which CCC will have to take on. CCC is surprised to note in the proposed Order plan (Folder 2, Sheets 9-12) that a third bridge 14m long is proposed where an existing private culvert is available nearby. This represents an unacceptable additional liability for CCC. CCC therefore **objects** to the proposal and requests that the route be amended to run over the culvert.

4.22 CCC has pointed out that the proposed changes will divert users to BR25 Ely as part of the circular route. The associated railway crossing is currently poorly surfaced and has a heavy vehicular gate that cannot be used by equestrians, and generally increases safety risk. CCC has requested that NR undertakes works to ensure that the crossing is easily accessible and safe to use by all users.

C25 Clayway, FP11 Littleport

4.23 The proposed closure of this path legally amounts to an outright extinguishment, as the alternative route is purely on an existing road. It represents the loss of a valued route regularly used by health groups. There are few public rights of way in the area, and so closure would have a considerable diminution of enjoyment for users and a potentially significant impact on healthy activity in a deprived area. CCC is concerned that if the route is extinguished, it could quickly impact on health activities in the area. For example, if the leader decides they are no longer attracted to lead walks, the whole group could cease to meet.

4.24 A previous attempt to close this path in 2006 in connection with the nearby housing development was unsuccessful, with the Inspector holding that the alternative road route and crossing was less safe than the existing route as it put users into direct conflict with road traffic. It also held that work could be done to make the existing crossing safer. Although NR proposes to create additional footway to reduce on-road walking, pedestrians would still have to share vehicular road space over the busy crossing.

- 4.25 There are no recorded incidents for the crossing, and CCC considers this to be a strong case where the existing access could be improved, as access is via a stile which could be changed to a gate allowing quicker exit from the railway. This is particularly important given that the route is well-used by local heartbeat groups. CCC therefore **objects** to the proposed extinguishment, and requests that mitigating improvements are made to make the crossing safer.
- 4.26 CCC would observe that Plot 30 appears to be very near the road, and that the land required for a 2m footway would appear to be on private land, as it is not already highway (cf plot 27 on Sheet 13). CCC also notes that the level crossing light on Plot 29 on Sheet 13, which is due to be used for the creation of the footway, currently obstructs the proposed route and will need moving.
- 4.27 CCC further notes that there is an anomaly between the legal line of FP15 Littleport and the walked route P045-P046, to which NR intends to create a connecting path. If the SoSDfT approves this proposal, CCC requests that the Order is amended to delete the section of FP15.

C27 Willow Row Drove, BOAT 30 Littleport (and C26, Poplar Drove, Littleport)

- 4.28 CCC welcomes the work that NR have undertaken with CCC to date to agree a solution for C26 Poplar Drove and C27 Willow Row Drove crossings and rights of way. CCC is aware that the Trail Riders Fellowship ('TRF'), an acknowledged user group, object to the closure of BOAT 30, as it provides them with access to an extensive byway network, which would be lost.
- 4.29 CCC acknowledges that there is no reason why these users should be so singled out, particularly as access for motorcyclists is being retained at the adjacent C26 Poplar Drove crossing. CCC therefore considers it reasonable to request that the BOAT simply be diverted over the line of the proposed bridleway link, with a Traffic Regulation Order ('TRO') made, prohibiting 4x4 vehicles from using it. The TRO would ensure that maintenance liability for CCC could be controlled, and that unauthorised access to adjoining farmland could be prevented. The TRF confirmed to CCC that this would mitigate their concerns sufficiently to withdraw their objection. CCC wrote to NR with this proposal on 21st March 2017, and would welcome further discussion with NR to agree the solution. In the meantime, CCC **objects** to this proposal and requests that the proposal is modified as set out above.
- 4.30 In addition, CCC notes that the resident of The Bungalow adjacent to the Poplar Drove Crossing has raised concerns about the safety of users of the crossing, as he has observed the gate being left open by private users on a regular basis. Under NR's proposal, the vehicular gate at the Poplar Drove crossing would be locked and access given only to registered key holders, with a bridlegate installed alongside to allow public access for non-motorised traffic and motorbikes. If Willow Row Drove crossing is closed to all users, this would generate additional agricultural traffic along Poplar Drove, which could pressurise non-motorised leisure traffic. It could also increase the incidence of the gate being left open, putting lives at risk, affecting other user journeys, and increasing the potential for collateral damage to The Bungalow, should a collision occur. Therefore, if this proposal is carried through, CCC requests that NR responds to these concerns and considers additional safety measures.

C29 Cassells, FP1 Brinkley

- 4.31 FP1 Brinkley is a pleasant off-road country path linking directly to FP11 Little Wilbraham, popular with local walkers and rambling groups. The proposed closure of this path legally represents an extinguishment, as the alternative route is primarily on the existing road or adjacent to it. There is an embankment between the road and NR's land where NR propose to create a new section of path, and it is not clear whether steps will be required or not. If so, this would significantly alter the accessibility of the route, as it is a gated crossing. If NR owns all of plot 07, it could put a ramp in to maintain a similar level of accessibility under the Equality Act 2010.
- 4.32 Brinkley Road is a UCR but it carries traffic to a busy junction leading to the A11 trunk road. It has been the site of 6 accidents since 2011, with a further accident on Brinkley road itself. Whilst CCC has been willing to consider extinguishment of the path due to its short length, in the interest of NR's strategic objectives, this is dependent on there being a satisfactory safe alternative. CCC has repeatedly requested NR to consult CCC's Highways Development Management team due to concerns about the safety of pedestrians in the road and additional infrastructure that would be required. NR has not done so to date.
- 4.33 The section concerned is completely unlit. There are already pedestrian markings on the road crossing. Whilst this infrastructure is NR's responsibility, if pedestrians are diverted to the road their safety becomes CCC's liability. Speed reduction measures would be required as users would have to cross at the level crossing where there is a kink in the road.
- 4.34 It is not clear what the status of the path on NR's land would be. The status must be definitive public highway. A permissive path would not be acceptable, as the rights could be withdrawn at any time.
- 4.35 CCC currently considers that the safest route is the existing footpath, and therefore **objects** to this proposal on grounds that the alternative route is not satisfactory. CCC requests NR to ask CCC's Accident Investigation Team to undertake a full road safety audit, and to work with CCC to identify if a satisfactory design can be agreed that meets CCC's safety and asset maintenance requirements.

C33 Jack O'Tell private crossing, Waterbeach

- 4.36 Closure of this private crossing severs the landowner's link to his yard and means that agricultural traffic would have to use the highway network, which would result in a long diversion. The Order plans do not show the alternative routes. CCC considers that there would be a significant adverse impact on the local highway and PROW network, resulting in an increased HA liability. The highways concerned are small fen roads, and are in a poor condition due to nature of subsoil and existing traffic. Therefore additional heavy agricultural machinery will exacerbate the problem and CCC's liability.
- 4.37 Existing farm traffic is known to run off Long Drove carriageway, causing deep hazards to the edge of the road and users. Increasing the volume of private farm traffic onto this road likely to increase number of claims against the HA, again increasing the burden on CCC. Carriageway patching would be required to bring up to standard, and four passing places would need to be created to take additional passing traffic.

- 4.38 Part of the alternative route would be over FP17 Waterbeach, causing damage to the route which again increases HA liability. Sharing the route with agricultural traffic would also diminish enjoyment for pedestrians.
- 4.39 CCC is disappointed that NR has not, until 14th June 2017, responded to requests to discuss the matter. It is hoped that a meeting can be arranged in July to move the matter forward. In the meantime, CCC **objects** to this proposal on grounds that the alternative routes are unsatisfactory and have a disproportionately negative impact on the highway network and CCC maintenance liability.

C34 Fyson's private crossing, Waterbeach

- 4.40 The issues are largely the same as for C33 Jack O'Tell, except that no public footpaths would be affected. CCC therefore **objects** to this proposal on grounds that the alternative routes are unsatisfactory and have a disproportionately negative impact on the highway network and CCC maintenance liability. CCC requests that NR agrees mitigation measures with CCC to enable CCC to remove its objection.

C35 Ballast Pit private crossing, Waterbeach

- 4.41 The issues are largely the same as for C33 Jack O'Tell, except that Public BOAT No. 14 Waterbeach would also be affected. This byway surface is soft and additional traffic would impact upon its condition and public enjoyment, which would put additional resource pressure on highway authority to resolve. The surface would require improvement to CCC's satisfaction.
- 4.42 CCC is aware that the proposed new town at Waterbeach could result in this BOAT 14 being incorporated into the development in due course. However, this is some years away, and so the highway network will still require the mitigating improvements in the meantime. CCC therefore **objects** to this proposal on grounds that the alternative routes are unsatisfactory and have a disproportionately negative impact on the highway network and CCC maintenance liability. CCC requests that NR agrees mitigation measures with CCC to enable CCC to remove its objection.

S22 Weatherby, Newmarket [This section will not be included in CCC's response, as it concerns the Suffolk Order. A separate response will be made to that Order.]

- 4.43 Although this crossing proposal is in Newmarket and is contained in the draft Network Rail (Suffolk Level Crossing Reduction) Order, it affects Cheveley and Woodditton parishes in Cambridgeshire. The route is not recorded as a highway but it has been very well-used by the public on foot for many years, including by residents of Woodditton and Cheveley. These parish councils, Newmarket District and Suffolk County Councillors all object to the proposed closure. This would effectively be an extinguishment, as the alternative route is on existing roads.
- 4.44 CCC recognises the importance of the route to the local community and its role as a connecting route for pedestrians to retail and community services located north of the railway corridor. Retaining the route also encourages healthy activities, and supports the physical and mental well-being of the local communities. As the path carries a heavy usage by pedestrians, CCC therefore **objects** to the proposal, and requests the removal of the proposal from the draft Order. CCC strongly supports the deferral of the

future of the crossing to a later phase of the Anglia level Crossing Reduction Strategy when alternative solutions can be considered.

5 Individual Crossing Holding Objections

C03 West River Bridge, FP7 Little Thetford

- 5.1 This path is located on a high bank above the Old West River, and is part of Fen Rivers Way long distance promoted route. The proposed alternative diverts the path down under the railway bridge at river level. CCC has repeatedly requested flood data in order to enable us to fully analyse the implications and agree any mitigation required. CCC has no mechanism to provide a warning to users if the river is in flood. People may take a risk in the water or be faced with long diversions, as there are very few crossing points over the river.
- 5.2 Surface improvements must be made under the railway bridge to enable it to withstand flooding and pedestrian use. Any required mitigation infrastructure must be installed to CCC and Environment Agency ('EA') approval, and commuted sums may be required.
- 5.3 CCC therefore makes a **holding objection** until such time as these issues are resolved, and reserves the right to object if a solution cannot be found.

C21 Newmarket Bridge, FP24 Ely

- 5.4 This path is located on a high flood bank on the eastern side of the River Great Ouse. CCC has repeatedly requested flood data in order to enable the Authority to fully analyse the implications and agree any mitigation required. It is also not clear from the description of proposals on p40-41 of the design guide at NR12 how users are expected to descend and ascend the bank to the underpass. Any required infrastructure must be installed to CCC and EA approval, and commuted sums may be required. CCC has no mechanism to provide advance warning to users if the river is in flood. People may take a risk in the water or be faced with long diversions, as there are very few crossing points over the river.
- 5.5 CCC therefore makes a **holding objection** until such time as these issues are resolved, and reserves the right to object if a solution cannot be found.

C22 Wells Engine, FP23 Ely

- 5.6 This is a popular long distance, double-designation promoted path, the Fen Rivers Way and the Ouse Valley Way. It is located on a high flood bank on the western side of the River Great Ouse, which flows from Huntingdon to Ely and beyond to the Washes. The Fen Rivers Way runs along the River Cam from Cambridge to King's Lynn, joining the Great Ouse at Little Thetford to the south of Ely. The routes support rural tourism and the local economy. The Fen Rivers Way between Cambridge and Ely is particularly popular, with often walking the 16 miles one way and then catching the train home.
- 5.7 The proposed alternative diverts the path down under the railway bridge at river level. CCC has repeatedly requested flood data in order to enable the Authority to fully

analyse the implications on users, health and well-being, and tourism, and to agree any mitigation required. Any required infrastructure must be installed to CCC and EA approval, and commuted sum may be required. CCC has no mechanism to provide advance warning to users if the river is in flood. People may take a risk in the water or be faced with long diversions, as there are very few crossing points over the river.

- 5.8 CCC therefore makes a **holding objection** until such time as these issues are resolved, and reserves the right to object if a solution cannot be found.

C31 Littleport Station, Station Road Littleport

- 5.9 The purpose of this proposal is to assist in enabling NR's King's Lynn-Cambridge 8-Car Scheme through the closure of the private barrow crossing in the station, used by passengers to access the platforms. Pedestrians would be diverted to CCC's highway underpass. NR proposes to achieve this by making a TRO prohibiting vehicles from using the underpass (see at Sch15 of the draft Order (TR003-TR004, Sheet 14)). CCC supports the 8-car scheme, as it will play an important role in the development of the local economy.
- 5.10 However, CCC observes that no traffic impact assessment has been provided to justify the closing underpass to vehicles, particularly with regard to the projected future growth of Littleport. Intensification of use of the station and the planned growth of Littleport requires complementary infrastructure to be provided if the underpass is to be closed to vehicles. CCC therefore makes a **holding objection** to this proposal, and requires that the assessment be provided to enable CCC to undertake the necessary analysis.
- 5.11 CCC also notes that the planning permission ref 16/01729/F3M for a new car park adjacent to the railway, approved by East Cambridgeshire District Council on the 3rd March 2017, obviates need for proposed Traffic Regulation Order. This is because, if the planning permission is implemented, the development will provide the safe pedestrian walkway required by CCC for the NR scheme. Further, the proposed raised walkway is not a permanent solution to the drainage problem, and positive drainage is required. CCC therefore requests that, if the planning permission is implemented, NR does not implement the TRO, and that NR agrees the drainage solution with CCC before any works commence. CCC requests that this be inserted into Request for Planning Permission as a **planning condition**.

6 Summary

- 6.1 In summary, the Cambridgeshire Order, as drafted, would result in:
- Three total path extinguishments, replaced with on-road walking;
 - Diversions resulting in an increase in path length of over 7km and associated maintenance;
 - Extinguishments and diversions resulting in 7.7km of on-road walking, cycling or horse-riding;
 - Extinguishments resulting in an additional 20km of diversion for vehicles;
 - An increase of more than twice the number of existing bridges (9 instead of 4) and associated maintenance liability;
 - Six new flights of steps up to 7m long and one culvert;

- At least 258m of additional street infrastructure liability; and
- The diversion of agricultural traffic onto 27km of highway and associated additional wear on the network.

6.2 Whilst the proposals would clearly benefit NR's asset management, it is not, in general, clear how they would directly improve transport services. However, the disbenefits associated with the proposed changes are more evident. CCC's principal concerns relate to the impact of closures on public health and well-being (physical and mental), and the associated cost to the public purse; the net increase in safety risk for NMUs arising from 'diversion' of many routes onto roads with additional crossing points; the significant transfer of risk and asset liability to CCC from NR; and the cost to the Authority involved in responding to and implementing the Order. CCC would have preferred to have been able to work with NR for longer to agree solutions, whether for the immediate GRIP stage or future stages¹¹. Consequently, CCC is objecting 15 of the 29 proposals. CCC would welcome continued working with NR to resolve these objections prior to inquiry.

6.3 CCC acknowledges that this is the first time that the TWA has been used for the proposed purpose. It has identified a wide range of in-principle problems with the draft Order, leaving CCC no option but to object to these points. CCC trusts that these issues can be resolved, not only in its own interest but in the broader interest of future schemes, and hopes that NR will continue to work with CCC to improve the wider transport network for all.

¹¹ 'GRIP' is the Governance for Railway Investment Projects