

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

THE NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER

PROOF OF JAMES AUDLEY

CLOSURE NEGOTIATIONS

21 MAY 2024

1 INTRODUCTION

- 1.1 My name is James Audley. I am employed by Network Rail Infrastructure Limited (**Network Rail**) as a Liability Negotiations Advisor. Initially I was employed into the role of Liability Negotiations Researcher from January 2013 to September 2013, and then since September 2013 to present day I have worked in the capacity of a Liability Negotiations Advisor. My role consists of advising on the statutory and contractual responsibilities concerning Network Rail's infrastructure. More specifically, where level crossings are concerned, my duties include investigating and advising on the legal status of level crossings and carrying out the legal process up until the point of closure.
- 1.2 Since July 2014, I have been the Western Route Liabilities lead for investigating opportunities and progressing closures for level crossings, when occasions arise. This relates to the permanent closure of both private and public level crossings. Undertaking work of this nature requires negotiations with private landowners and local authorities (of all levels), the preparation of documentation and applications under varied legislation such as the Highways Act 1980 or the Town and Country Planning Act 1990 and providing and submitting documents to support Network Rail's case at public inquiries.
- 1.3 I append a number of documents to this Proof, each labelled as **[JA1]** etc. which can be found in Appendices document **[NR-W2-2]**.

2 INVOLVEMENT WITH THE SCHEME, SCOPE OF EVIDENCE AND STRUCTURE OF THIS STATEMENT

- 2.1 Network Rail (**NR**) is proposing to close the level crossing at Tackley station. The process of this includes the provision of a footbridge with lifts at Tackley station, the stopping up of part of an existing bridleway over the Tackley level crossing and creation of a new bridleway alongside the railway, and other ancillary works (the "**Scheme**").
- 2.2 My involvement in the Scheme began back in 2018 when I was approached by Western Route (which stretches from London Paddington to Penzance, through Bristol and Oxford, up to the boundaries with Wales and Pershore in Worcestershire) sponsors and project managers to comment on Tackley level crossing and provide information on the historical and current status of the crossing and provide my expertise from previous level crossing closure investigations that involved public rights of way.
- 2.3 Since the above initial meeting, I have been involved with the discussions and engagement events with the principal stakeholders (Tackley Estate, Oxfordshire County Council, Tackley Parish Council, Tackley local community and their 'sublet' groups and the British Horse Society (**BHS**)). These discussions and engagement events have varied from site

visits in Tackley, email and phone correspondence, online meetings and open evenings and consultation events at Tackley village hall.

2.4 In this proof I will provide evidence on the interactions between Network Rail and various stakeholders in relation to the creation of the new bridleway (being part of the Scheme), as set out below:

- (a) Section 3 sets out the scope of the works of the Scheme;
- (b) Section 4 provides details as to the interactions between Network Rail and Oxfordshire County Council, Tackley Parish Council, the Tackley Estate, the British Horse Society and the local community; and
- (c) Section 5 considers objections.

3 THE SCHEME

3.1 The Scheme is described in detail in Mr. Willson's Proof of Evidence [NR-W5-1], but it includes the following elements:

- (a) the stopping up of that part of the public bridleway (379/2/10) (marked with a green solid line on the Land and Rights of Way Plans [APP7] (**Existing Bridleway**) which crosses the railway at Tackley Level Crossing as a result of the closure of the Level Crossing. The Existing Bridleway would therefore become a cul-de-sac;
- (b) the creation of a new bridleway (and associated fencing) to the west of the Existing Bridleway (marked with a pink dashed line on the plan on the Land and Rights of Way Plans) (**New Bridleway**) which would run adjacent to the railway before joining the existing byway (379/25/10) (**Existing Byway**) to the south. This would re-provide the Existing Bridleway connectivity east to west towards Tackley village; and
- (c) redesignation of part of existing footpath (379/16/20) (**Existing Footpath**) to bridleway status to enable use by horse-riders as well as pedestrians and cyclists.

4 INTERACTIONS BETWEEN OXFORDSHIRE COUNTY COUNCIL, TACKLEY PARISH COUNCIL, THE BRITISH HORSE SOCIETY AND THE TACKLEY ESTATE

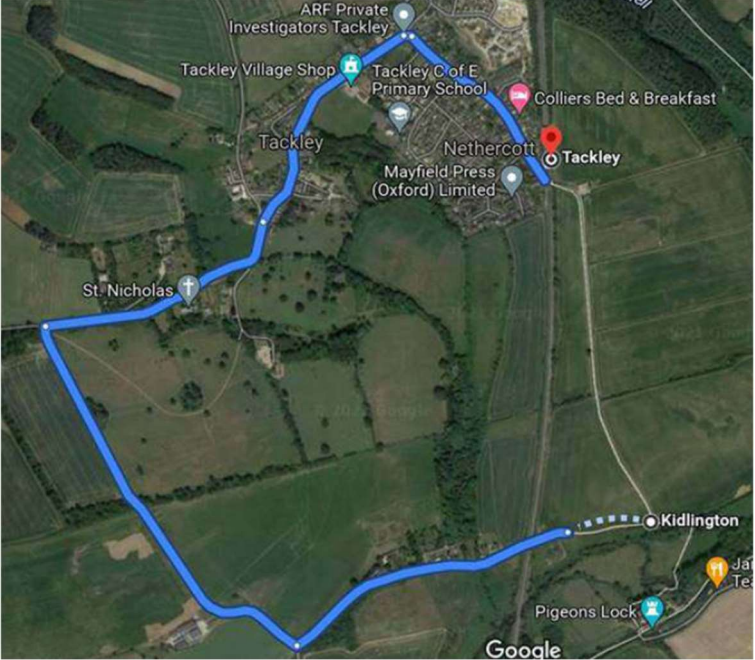
Oxfordshire County Council

- 4.1 Oxfordshire County Council (**OCC**) are the Local Highway Authority (**LHA**) for the Tackley area and Oxfordshire as a County. In their role as LHA, OCC are required to record the routes and location of public rights of way (**PROW**) including any changes made by a legal process, such as the Highways Act 1980 and the Town and Country Planning Act 1990 and alongside landowners, provide maintenance and remove obstructions from PROWs to ensure they are always open for use by the public. OCC's interest in the Scheme is based upon Network Rail's desire to close the Existing Bridleway, which is a bridleway under their jurisdiction.
- 4.2 The table below sets out a history of Correspondence with OCC and in particular the Public Rights of Way Department:

6th August 2018	After a site visit in Tackley to discuss the crossing and diverting the bridleway, James Audley (JA) first wrote to Andy Sylvester (AS) of OCC Public Rights of Way Department suggesting the two proposals discussed on site, proposal 1 is Infield Route [JA1] (as referred to in Table 3 of Network Rail's Statement of Case and proposal 2 is the lineside route (being the route of the New Bridleway) (Lineside Route) [JA2].
9th August 2018	AS replied to JA stating the following. • Proposal 1 / Infield Route – OCC are accepting of this proposal; the route would need to be 4m wide and would ideally be kept undisturbed on the field edge. • Proposal 2 / Lineside Route – OCC cannot accept this proposal due to safety concerns for horse riders next to the railway with fast trains potentially spooking horse and/or rider. OCC noted to JA that Tackley Parish Council would not be accepting of this proposal. Mr. Lane's Proof of Evidence [NR-W6-1] speaks to the safety of the Lineside Route and the possible mitigation measures NR could implement. AS also commented on how the footbridge and platforms would need to be dedicated as public footpath.¹
8th February 2019	JA wrote to AS and colleague Sarah Aldous (SA) to update them on the latest and how after discussions with the Tackley Estate, Tackley Parish Council, the British Horse Society (BHS) and the Ramblers that the infield route has been provisionally agreed with parties [JA3] and NR are looking into sound mitigations for the first section of the route that runs between railway and the house on Nethercote Road. JA also updated AS and SA on the other options NR has discussed the parties [JA4]
11th April 2019	AS replied to JA confirming their preference for the infield route to be taken forward and that maintaining the Existing Bridleway, even as a dead-end as it provides extra routes for horse riders to legally use.
29th April 2019	JA emailed AS and SA to obtain clarification from OCC regarding the width of the bridleway (NR believes the required width is 3m to 5m) and whether there was standard for bridleway paths.
7th June 2019	AS and SA replied to JA stating there was not a preferred specification from OCC, but any surface would need to be suitable for horse, cycle, and foot use due to the legal status of who can use a bridleway.

¹ Whilst this was agreed in principle at the time, it has since been accepted that this is not possible as Network Rail cannot dedicate a PROW over a station because of statutory incapability.

12th June 2019	JA emailed AS and SA to pass the internal NR Tackley options report which laid out all the options considered for the diversion of the bridleway, including the proposal already discussed, other diversion options and a shared pedestrian / equestrian subway
15th August 2019	JA emailed AS and SA stating that NR intend to use self-binding gravel for the route but are willing to change to a different material if preferred by OCC and the landowner. The self-binding gravel would have the advantage of being low maintenance for the Council and landowner, at the same time being substantial enough to cope with any machinery the landowner may take over the path when crossing from field to field.
22nd October 2019	NR has concluded that a pedestrian and bridleway subway to the South of the station is the best solution.
23rd October 2019	A near miss was reported on 16th October which involved two crossing users stepping in front of a train approaching Tackley level crossing. Alongside the previous 13 reported incidents reported between November 2018 and October 2019, an internal decision was made by Network Rail to seek a Temporary Traffic Regulation Order (TTRO) to close the section of the Existing Bridleway as it crosses over the railway, closing to both bridleway and station users, who would be accommodated by the construction of a temporary footbridge. NR's public affairs department wrote to Robert Graham of OCC stating NR's desire to get achieve a TTRO and the reasons why. OCC public rights of way department were made aware of the desire to temporarily close the crossing.
24th December 2019	Jason Russell, Interim Director Community Operations at OCC wrote to Mike Gallop, former Western Route Director at NR to confirm the TTRO had been approved and would commence on 1st January 2020.
1st April 2020	Tony Conn (TC) (ex-NR sponsor) emailed AS to ascertain OCCs views on whether the subway should have CCTV, lighting, and mirrors. TC stated that NR did not intend to have CCTV in the subway but would have lighting and mirrors. The reason behind this is that Great Western Railways (being the owner of Tackley station) have declined to have the subway in the station lease, therefore there is no one to monitor the CCTV; this is not something that NR do themselves. Also, there is no CCTV on the station which is unmanned and it's a rural village location with no history of trespass and vandalism.
2nd April 2020	AS replied to TC that OCC do not have any concerns with CCTV, lighting and mirrors but wished to own or monitor the CCTV.
28th April 2020	SA emailed JA to request an update on the subway, confirm the temporary footbridge was open and whether NR had had any luck in securing a temporary bridleway diversion across the Tackley Estate's land.

29th April 2020	JA replied to SA confirming that surveys were completed as planned at the start of the year but due to internal procurement issues and COVID-19, the start of the design process was delayed until September/October. It was relayed that “[w]hen the contractor comes on board in the autumn, we will have a better view of programme timescales that can be shared with all stakeholders.” JA also confirmed to SA that attempts to secure a temporary bridleway during the TTRO period had failed, as unfortunately NR were unable to agree anything with the Tackley Estate, and after enlisting the Western Route director to write personally to them to ask them for assistance the estate made it very clear that they were not willing to assist us and conversations were stopped on this subject as to not prejudice or affect the progress for the permanent subway and above mentioned surveys.
29th October 2021	AS replied to JA’s email in late September regarding whether OCC would accept an extinguishment of the Existing Bridleway and horse-riders using the public road system (shown in blue below) as their access route back in Tackley.  AS stated, this would not be acceptable, the reasoning being the safety of horse riders on the roads shown in blue, because as some of these roads are ‘country roads’ the speed and lack of opportunity to escape for horse-riders to escape would likely to lead to objections from the local horse-riding community. This, along with the length of the route (2.2miles) would also be deemed too long as well and likely to be seen as too far and not a suitable replacement / alternative route to the crossing.
2nd November 2021	JA emailed AS, SA and Katie Walther (KW) of OCC to confirm that due to cost of the scheme, the subway proposal had been discounted, and NR were now considering the Lineside Route [JA5]. The route was approximately 960m in length, Network Rail would propose it to be 4metres in width and be fenced.

	JA recalled previous concerns of OCC that having a bridleway running adjacent to the railway would be an issue, however, in more recent discussions with the British Horse Society, it was confirmed that there was no evidence that it was unsafe to ride / drive horses next to active railway lines on routes shared with walkers and cyclists [JA6]. At this time it was assumed that putting the bridleway adjacent to the railway would not cause any issues for the BHS. It was also felt that positioning the bridleway adjacent to the railway would have been seen as a benefit to the landowner (Tackley Estate, who hadn't yet been approached with this proposal) as well. In terms of the bridleway on the Eastern side of the railway, this would become a dead-end route., and with a permissive footpath being granted over the station footbridge (which would have cycle channels and lifts) to keep access for walkers through the middle of Tackley village, much like the access that is provided with the temporary footbridge.
5th November 2021	AS replied to JA stating that before OCC responded either way, could JA and NR ascertain the BHS's view on the proposal.
17th May 2022	JA sent a letter & email to AS, SA and KW stating that NR were looking into the Lineside Route. Laying out the benefits of the route and proposal to the Estate, which included at the time stopping up the Existing Bridleway, which was previously a request by Tackley Estate in exchange for having a new route across their field to the West of the Railway [JA7].
22nd June 2022	AS replied to JA and his 17th May letter stating the lineside is far from ideal due to safety concerns of the route as suggested by BHS previously (Mr. Lane's Proof of Evidence [NR-W6-1] speaks to the safety of the Lineside Route and the possible mitigation measures NR could implement) and addressed the following. • The stopping up of the Existing Bridleway is not acceptable and this must remain as cul-de-sac as the proposed Lineside Route is inferior to the Existing Bridleway. • The new lineside bridleway is required to be of a similar surface to the Existing Bridleway. • The new lineside bridleway is required to be 4m wide as opposed to the 3m suggested by NR. • The 4m width and surface needs to be suitable for cyclists as the Existing Bridleway is a Sustrans route.
20th September 2022	After a meeting on 16th September 2022 to discuss the bridleway, JA emailed AS, SA and KW to confirm the following specifications for the Lineside Route [JA5]. • The bridleway would have a width for 4 meters. This width would be from the current railway fence line, heading into the field owned by the Tackley Estate.

	• The bridleway would be unfenced on the field side of the new route. • The bridleway would have a type 1 surface, which is suitable for both horse riders and cyclists as well as footpath users and dogwalkers. • The footpath over the station platforms and footbridge would be permissive.
10th October 2022	AS replied to JA stating that OCC were happy with the above specifications
27th January 2023	Petronella Natrass on behalf of the BHS emailed JA (cc'd in AS from the OCC) requesting an update on the Scheme and reiterated the BHS's stance against the Lineside Route due to safety concerns. (Mr. Lane's Proof of Evidence [NR-W6-1] speaks to the safety of the Lineside Route and the possible mitigation measures NR could implement). JA responded to both Petronella and AS stating that there is no update as NR were still trying to engage in meaningful discussions with the Tackley Estate, but to no avail.
3rd March 2023	NR as project team, gave OCC (AS, SA and KW) an update on the Scheme past and present. This included telling the OCC about how the Estate's preference was for the Northern route [JA8] and explaining why this route was discounted whilst confirming the specifications for the supported route, as discussed in October 2022. Mr. Willson's proof of evidence [NR-W5-1] will discuss these reasons in greater detail.
15th March 2023	SA wrote to JA agreeing that the Northern Route was not suitable for a diversionary bridleway due to the amount of works needed to create the route. SA also requested NR investigated noise mitigation possibilities for the Lineside Route. SA once again reiterating the OCC's preference and desire to keep the Existing Bridleway open.
20th March 2023	AS provided JA with a written statement in the form of an email as to why OCC had no issue with the Existing Bridleway being kept as a cul-de-sac / dead end as the route was considered as an important, scenic, traffic free route over a significant length (880m, 1.6km return journey).
18th April 2023	Hywel Morse, the land agent acting for the Tackley Estate replied to Bruton Knowles (NR's land agent) (JA cc'd in) giving details of the Estate's fencing specification preferences, hinting at the possibility of the Estate keeping livestock in the field, further ruling out the Infield Route. JA forwarded these specifications to AS, KW and SA on 27th April 2023, with no mention of the potential livestock.

5th May 2023	AS replied to JA regarding the Estate's fencing specification, stating OCC would not accept the maintenance responsibility and would not accept any barbed wire on the fencing. AS also stated, their preference would be for the route to be unfenced.
11th May 2023	A meeting was held between NR and OCC to discuss fencing. In the meeting it was noted that for the route to be fenced, OCC required the physical bridleway to be 4.5m in width and fencing would have no barbed wire due to safety concerns; NR proposed to incorporate these terms into their ongoing negotiations with Tackley Estate. AS later clarified in reply that OCC understand landowners do sometimes want/need barbed wire 'stock side' to provide added control of animals. <i>"OCC preference is to have no barbed wire at all to ensure maximum safety for horses/riders. However, if barbed wire is needed then it should be run along the field side of the fence posts with a run of plain gauge wire run at the same height on bridleway side of fence posts to shield the barbed wire."</i>
13th July 2023	Following a meeting with the BHS to discuss the Scheme past and present and proposed bridleway solutions, Aimi Blackmore ((ex-NR Consultation and Consents Manager) (AB) and JA wrote to AS, SA and KW to discuss the possibility of investigating an alternative route to the very West of the Estate's land (referred to in Network Rail's Statement of Case as the 'Western Infield Route') (Western Route) [JA9]. An online meeting was organized for the 20th July and an on-site meeting set for 27th July.
27th July 2023	The site meeting occurred with NR, OCC and Hywel Morse (land agent for the Tackley Estate) in attendance. On site the route was walked and discussed, weighing up the pros and cons of the newly proposed Western Route and all other routes that had been looked at to date. The meeting ended with NR agreeing to investigate the route in more detail from an engineering perspective.
20th September 2023	JA and AB informed HM, OCC, and the BHS that this route was not viable due to several constraints including cost, flooding, drainage, and ecological concerns.
8th December 2023	The Network Rail (Tackley Level Crossing) Order (Order) was submitted to the Department for Transport on Friday 8th December 2023. OCC as the Highway Authority were informed of the submission by a letter sent by David Wilson, Head of Consents and Environment for NR. Over the next few days, JA had correspondence with Andy Sylvester clarifying a few elements of the Transport and Works Act Order procedure.
1st March 2024	NR wrote to OCC thanking OCC for the letter of support OCC had provided in relation to the Order [APP1], noting OCC's agreement that <i>"the closure of the level crossing will improve safety and the positive steps that keeping</i>

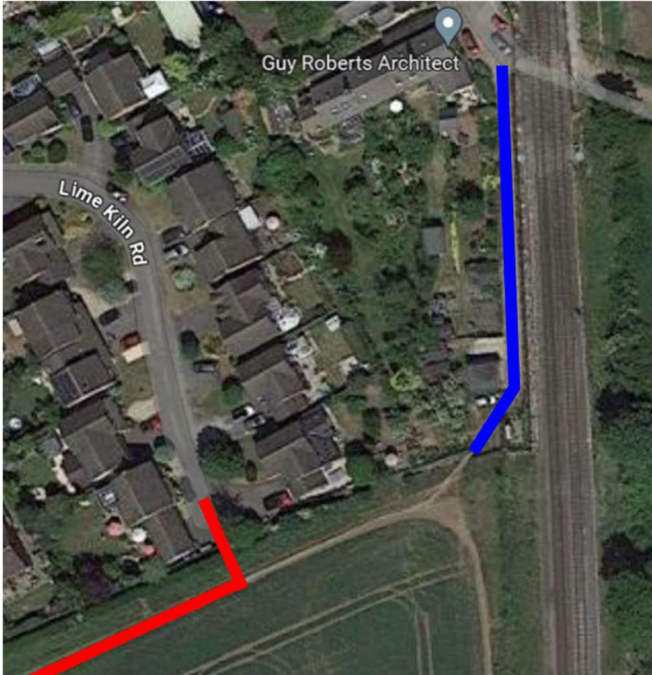
	<i>the permissive footpath will provide to the wider public rights of way network.”</i>
5th March 2024	After AS was contacted by the BHS over the Estate's renewed offer of the Infield Route (made by Hywel Morse, appointed land agent for the Tackley Estate, on 19th January 2024 to Aimi Blackmore (ex-NR Consultation and Consents Manager)), JA replied to AS with similar wording stating the same position NR had previously given directly to the Tackley Estate <i>Network Rail's primary objective is to close the level crossing and to do so in a manner which seeks to mitigate any adverse impacts, for example to the bridleway network, and which is cost effective and to programme. Network Rail is of the view that its proposal for the replacement bridleway is safe and cost-effective (being deliverable within existing permitted development rights).</i> <i>The 'infield' route was disregarded by Tackley Estates early on in discussions, due to unnecessary severance of the land and interference with introduction of livestock to the field. This route is the one that is widely used by those who have been granted licenses by the Estate whilst the level crossing is shut under a Temporary Traffic Regulation Order (TTRO). The Estate recently put forward the proposal for discussion, after the submission of the Transport and Works Act Order. A condition of the new route included the closure of the existing bridleway.</i> <i>Although we acknowledge that, the infield route proposed could re-provide the bridleway connectivity, Network Rail are not in a position to introduce a large alteration to the TWAO as it would cause significant delay and risk to our programme and increase costs, with greater impact on the land and as such cannot be seen as the better solution in the round. We note that the provision of the infield route ties in with a much greater closure of the existing bridleway to the east of the railway line. The closure of the existing bridleway in its entirety would not be acceptable to many stakeholders and has been discussed at length in the past.</i> <i>Network Rail will continue to promote its scheme in the TWAO and will not be promoting the increased closure of the bridleway on the eastern side. Should the landowner / others seek and obtain any consents necessary for the infield route and be in a position to deliver and dedicate it within the necessary programme, Network Rail would be happy to enter into further discussions at that time regarding the use of that route. The TWAO powers will not preclude the infield route.</i> AS responded to JA and AB on 5th March stating the above information was helpful and clarified the situation.
21st March 2024	SA wrote AB to confirm that OCC are not comfortable with the implication that OCC is happy to adopt the proposed New Bridleway, as OCC are still concerned about the safety of this route and need to see further evidence and details of proposed mitigation measures. This concerned was acknowledged by NR and was already known.

- 4.3 The current state of engagement with OCC is that they are fully aware of Network Rail's proposal for the Lineside Route and are generally supportive of the proposal to close the level crossing. Whilst they are accepting of the Lineside Route, OCC are awaiting further evidence and details of proposed mitigation measures in relation to the safety of the proposed New Bridleway before fully supporting the Lineside Route fully.

Tackley Parish Council

- 4.4 The role of Tackley Parish Council (**TPC**) was to act as a contact and stakeholder for NR to ascertain their views on any proposals and discussions in relation to the level crossing, bridleway, and new station access on behalf of the community.
- 4.5 Below is the history of correspondence with TPC. Whilst I was involved in and attended the majority of meetings, site visits and village hall events listed below, I was not the main contact for NR, which has changed multiple times between 2018 and the present day and did not attend every meeting that was arranged but was aware of the discussions.

3rd September 2018	Whilst on site, the former Local Level Crossing Manager (LCM) Chris Williams (CW) bumped into the Chair (now former) of the Parish Council June Collier (JC). JC stated to CW that she could not understand why the 'Barwood Bridge' option [JA15] had not been taken forward in late 2015 (Mr. Willson's proof of evidence [NR-W5-1] discusses this in further detail); this was due to lack of funding and the bridge not providing the required station access to close the crossing. JC also informed CW that she was against the idea of the bridleway along the boundary of the railway, even just for the section at the top of the route between the railway and the houses on Nethercote Road.
10th September 2018	A meeting with the TPC was held to discuss all matters relating to Tackley, the level crossing and the safety case which justified closure of the crossing. Other matters discussed in the meeting were: • Why the 'Barwood Bridge' option had not been taken forward. • Acknowledgment that the bridleway diversion would have challenges, but NR would endeavor to get this right. • NR would endeavor to involve and keep all stakeholders up to date with the latest information on the scheme.
11th November 2018	Richard Macrory and Robin Gibbons, the rail representatives for the TPC, suggested to the NR Sponsor, Chris Nash, the possibility of Lime Kiln Road as the bridleway entry point from the village into the Tackley Estate's field, (as shown in red below). This would avoid the concern of using the Lineside Route shown in blue, as flagged by JC in September 2018.

	In January 2019, JA wrote to the two homeowners (12 and 17 Lime Kiln Road) both landowners to ascertain whether they would accept the proposal, both homeowners rejected the proposal as it would affect the enjoyment of their property. 
22nd November 2018	Alistair Byres (AByres) (ex-NR Consents Manager) wrote to JC to confirm that NR was not able to update the Parish Council in the December Parish meeting but was hoping to attend in the New Year to provide an update.
10th June 2019	A meeting was held at Tackley Village Hall with the TPC and the wider village to update on the latest NR proposals. During the meeting NR stated the preference was for a stepped footbridge with lifts to be built at the station, with the Infield Route [JA3]. It was stressed that NR are not fixed on these preferred options, and these can be improved, modified, and even changed and all pending achieving the relevant legal agreements and permissions. Part of this process would be agreeing a suitable surface for the brideway route which would be fit for walkers, cyclists, and horses. NR also explained why level crossing technologies such as Miniature Stop Lights (MSL's) and self-locking gates were not being considered (Mr. Aston's Proof of Evidence [NR-W7-1] discusses these options in detail). NR explained why other proposals, such as the subway, the 'Barwood Bridge' had been discounted.
16th and 18th September 2019	A meeting was held, attended by NR, Charles Bates (CB) (Land Agent for the Tackley Estate) and June Collier of Tackley Parish Council to discuss the level crossing and the brideway proposals. Multiple options to close the crossing and divert the brideway were raised. Whilst none of these options were categorically ruled out during the

	meeting, the reasons for discounting these options are discussed within Mr. Willson's proof of evidence [NR-W5-1]. During the meeting (and in a follow up email to JA on the 18th) CB confirmed the Northern Route was still the Estate preference, it was however noted by NR and confirmed by June Collier that the wooded section (partly in Tackley Estate's and partly in Network Rail ownership) at a point further north than Tackley railway station, is on a very steep slope down to the river bend, with the bottom area subject to flooding. These factors meant that this route may have been difficult to achieve from an engineering perspective. In this meeting, NR stated their current preference would be either a ramped footbridge or subway to the south of the level crossing but acknowledged that both would have their challenges. A ramped footbridge would be visually intrusive, whilst there were concerns over any subway having issues with flooding. Both options were being assessed by NR.
November 2019	After a near miss on 16th October involving two crossing users stepping in front of a train approaching the crossing, alongside the previous 13 reported incidents reported between November 2018 and October 2019, an internal decision was made by Network Rail to seek a TTRO to close the section of the bridleway as it crossed over the railway, closing off access to both bridleway and station users, the latter would be accommodated by the construction of a temporary footbridge. As the temporary closure didn't include a temporary bridleway diversion, NR informed TPC that they were writing to the Tackley Estate to inquire whether the Estate would be prepared to accommodate and allow a temporary diversion of the bridleway over their land on the western side of the railway. The proposed route would follow the previously discussed Infield Route [JA3].
14th January 2020	JC phoned JA, who had been forwarded JA's email to the BHS explaining the reasoning for both the TTRO and the lack of a temporary bridleway being in place. JA queried with the wider project why TPC were not informed. During the phone call, JA explained the reasoning for the TTRO and why a temporary diversion for the bridleway had failed too after the Tackley Estate were not prepared to grant the request.
22nd January 2020	A letter was sent to the TPC explaining the reason for the TTRO and how NR were finalizing plans to construct a temporary footbridge to allow the TTRO to be actioned. The letter also assured the TPC that NR remained committed to the permanent solution of the subway.

23rd January 2020	JA and Emma Hutchins (NR Community Relations) met with Petronella Natrass (PN) and June Collier (Head of TPC and a local horse rider) on site to discuss the temporary closure and continued to give reassurance on finding a permanent solution.
April 2020	The temporary footbridge was opened at the station.
15th November 2021	Deborah Allbrook (DA) and David Paull (DP) from NR Communication Department met with JC to discuss the latest on the subway proposal. At the meeting DA and DP informed JC that the Estate had rejected the chance to sell the necessary lands for the subway to NR and that NR were now considering other options for the permanent solution.
16th November 2021	A letter was sent to TPC outlining the reasons why the land purchase failed, detailing the engineering challenges with any subway construction and the safety concerns that existed at the crossing when it was open and why NR could not reopen the crossing.
11th February 2022	DP emailed West Oxfordshire District Council Councilor Andy Graham to reassure him that NR were looking for a permanent solution, and that NR were in regular contact with OCC and the TPC.
29th June 2022	DP after a meeting with JC, Liz Marshall of TPC, Reg Cox and Angus Paxton (members of the Tackley Railway Action Committee (TRAC)) to update them on the latest regarding the subway, and the Independent Report completed by Motts MacDonald, who were appointed by NR to undertake a complete review of the options considered for both the bridleway diversion and station access. DP reiterated that the subway option was not viable due to spiraling costs of the scheme compared to process obtained in 2017 / 2018.
11th April 2023	NR held a meeting with representees of TPC and TRAC to discuss the latest on the bridleway and station footbridge scheme. JC felt that NR had not taken the village's concerns on board. She had a meeting with BHS and OCC three weeks earlier near the railway and it was agreed that it was not possible to ride a horse along it. June believed that the current Lineside Route proposal for the bridleway was not safe. JA with regards to bridleway location on behalf of NR raised the BHS report [JA6] which was undertaken in connection with High Speed 1(HS1) rail link, stating that it was safe to ride next to the railway. NR waited to hear from the new BHS local rep, who it was advised was a gentleman called Will Steel. JC stated that this report was taken out of context. JA stated it cannot be taken out of context as it states it is safe to ride next to the railway, as is done in many parts of the country. The national and local stance on this matter differs. JC requested a senior representative who rides horses to visit the bridleway. NR have since enlisted the services of equestrian expert Mr.

	Charlie Lane, who's Proof of Evidence [NR-W6-1] will discuss the bridleway and horse safety in detail.
25th May 2023	NR held a meeting with representatives of TPC and TRAC to discuss the latest on the bridleway and station footbridge scheme. AB and JA gave an overview of discussions, including challenges and costs for proposals to the North. Confirmed BHS preference for the Infield Route and concerns were raised about the line side bridleway and horses bolting on the Lineside Route. Touched on the licenses between local horse riders and the Tackley Estate to allow riders to use the Infield Route. NR asked if anyone would be willing to share their license agreements to support future meetings with the Tackley Estate. NR were not provided with any further regarding these licenses. NR agreed with OCC to keep the Existing Bridleway open as a dead-end route. JC stated that it is not being kept open as you cannot cross the railway and questioned why keep it open if you cannot access it and a circular route is preferred, not just to go up and down. In terms of the dead-end bridleway, NR noted that whilst this does not have a legal connection now (with the TTRO being active), once a new bridleway route is in, that is when one would be able to ride on to it. OCC have no concerns with it being dead end bridleway. OCC stated that bridleways viewed slightly differently; where there's an opportunity to keep them open, it's something we very much consider. It's there for public enjoyment, keeps the open to walk/ride/cycle. JC also questioned why the northern route was not given to the independent consultant Motts MacDonald to review in their independent report. JA explained that it was not given to the independent person because it was ruled out very early on as part of NR's optioneering: NR cannot fund two bridges and a bridleway. Liz Marshall (LM), Member of TPC asked why the permissive route over the station to the bridleway may be closed? Access to the station would be a longer route which AB confirmed was due to concerns over non-station users using the station, although discussions would remain ongoing. LM stated that closing the permissive route would make proposals less popular. JA and AB stated the permissive path is not closing.
7th June 2023	In response to JC question at the 25th May meeting about whether NR were going to take responsibility/liability if an accident were to happen on the New Bridleway, JA and AB sort clarification by NR's internal legal counsel who provided the below response. <i>"If the bridleway is on NR land adjacent to the railway, [at time of question, it was believed NR were going to purchase the land for the Lineside Route] then NR will have a duty of care under the Occupier's Liability Act 1957 (for visitors – trespassers is dealt with under OLA 1984 where the duty is similar but much less onerous). The extent of the duty is to take such care as is</i>

	<i>reasonable to see that the visitor will be reasonably safe for the purpose for which they are on the occupier's premises.</i> <i>In addition to mitigating any noise/disturbance, NR should also put up signage which states (something along the lines) that the path runs alongside the railway and it is the horse riders responsibility to ensure that their horse is under control and does not stray onto the railway line; that passing trains may cause horses to spook and there may be occasions when a train is required to use its horn and so the path should not be used unless the horse rider is certain there is no concern for their/their horses safety.</i> <i>I think that there's a standard list of highways and other advisory signs so it may be that there is standard wording for this situation but the above is what NR should be looking to cover.</i> <i>If a horse rider nevertheless chooses to use the path and their horse spooked, then we would look to rely under the consent defence – that an occupier is not under an obligation to a visitor in respect of risks willingly accepted by the visitor and is therefore not under a duty to a visitor for self-inflicted injuries they sustained when they voluntarily took risks in the face of obvious warnings."</i> This information was not passed to JC or TPC by email but was discussed with various local horse-riders at the Order consultation events held during June and July of 2023.
June and July 2023	During the summer of 2023, two Village Hall events were held outlining the proposal for the Order. During the events, many people from the Village attended to discuss the Order proposal. During this process, the TPC continue to reiterate their objection to the proposed bridleway diversion due to concerns over safety of the Lineside Route. (Mr. Lane's Proof of Evidence [NR-W6-1] speaks to the safety of the Lineside Route and the possible mitigation measures NR could implement).
8th December 2023	The Network Rail (Tackley Level Crossing) Order was submitted to the Department for Transport on Friday 8th December 2023, TPC were informed of the submission by a letter sent by David Wilson, Head of Consents and Environment for NR.
1st March 2024	NR provided a response to TPC's objection [OBJ/63] submitted to the Transport and Infrastructure Planning Unit on 25 January 2024, in relation to the proposed Network Rail (Tackley Level Crossing) Order. In the response, NR answered questions in relation to why the level crossing needed to close, why various solutions such as the subway, the 'Barwood Bridge' and the Infield Route had been discounted.

4.6 Due to the current Order process, there is no current engagement with TPC or the wider village.

Tackley Estate

- 4.7 The Tackley Estate are the principal landowner affected by the scheme as they own most of the lands required for compounds to construct the necessary infrastructure for the new bridleway and station footbridge. The information in this proof is concerning the bridleway scheme only.
- 4.8 History of correspondence with the Tackley Estate, mainly through their land agents, Charles Bates, and Hywel Morse of Law & Fiennes LLP.

9th August 2018	James Audley (JA) first wrote to Charles Bates (CB) of Law & Fiennes LLP, the listed land agent for the Tackley Estate requesting a site visit to discuss the level crossing, the desire of closure and possible diversion routes across the Estate's land
21st August 2018	After the site meeting on 16th August, JA provided notes to CB on what was discussed, CB stated in reply. - The ultimate preference is for the Estate not to be involved at all and for a subway to be constructed. CB requested further information as to why a subway was not being considered at this time. - If the Estates land was required however, their preference would be for the Infield Route to be used [JA1]
8th February 2019	JA replied to CB's email of 21st August 2018 to update CB confirming that NR had been speaking to various stakeholders about the proposal to close Tackley level crossing and divert the bridleway using the August 2018 proposals. [JA2] and [JA1] the feedback received had been positive for the level crossing, there however concerns over the small roadway owned by NR between the end of Nethercote Road and the safety of horses, NR were looking into sound mitigation options. On the back of the feedback, JA also stated that NR had investigated numerous other routes to create a bridleway diversion and the Estate's feedback on these routes would be greatly appreciated [JA4].
11th February 2019	CB phoned JA to state that reviewing options of [JA4] the Estate's preference was, if the Estate's land was needed, for the Infield Route to be used rather than any of the other proposed routes. After reviewing the options of [JA4] CB phoned JA to confirm the Estate's ultimate preference would be not to be involved at any level, however, if the Estate's land was needed, the Infield Route would be the Estate's preferred option. This phone call was summarized by JA and emailed to both the project leaders and the OCC public rights of way department for their information and action where necessary.

20th May 2019	JA wrote to CB to update on the latest and how the project team were still looking the subway viability and JA would revert when he had more information on this. JA also wrote to ask for the Estate's comments on the possibility of using the Estate's land to divert the bridleway North on the Eastern side of the railway to an overbridge, which is already a bridleway, approximately 1,200 meters North of the level crossing (Network Rail are also landowners on this route. This route would mean the bridleway stays on the Eastern / Non-Village side of the railway [JA8]. The route would run through land owned by Charles Cottrell-Dormer aka the Rousham Estate (no discussions with this landowner had occurred so far), Network Rail owned land and then Tackley Estate's land, to meet up with the existing Kirklington Way bridleway at the east side of the level crossing. JA reiterated that the Infield route [JA3] was still NR's preferred choice for the diversion as it was believed that it may be difficult to achieve the Northern Route.
21st May 2019	CB confirmed to JA that he and the Estate will investigate the Northern Route and informed JA that this route would require a third landowner to get involved besides the Estate and NR.²
29th May 2019	CB wrote to JA to inform him that after discussing the Northern Route with his clients, that this was now the Estate's preferred option for a bridleway, providing it was achievable with the conditions on the ground (The reasons why this route was not achievable is discussed within Mr. Willson's proof of evidence [NR-W5-1]). The obvious solution was for NR to purchase the necessary lands from the Estate to achieve the route.
3rd June 2019	In acknowledging CB's email of 29th May 2019, JA informed CB that after consultations with OCC and based on previous discussions with CB and the Estate, the Infield Route was still NR's preferred choice for the diversion [JA3].
16th and 18th September 2019	A meeting was held, attended by NR, CB, and June Collier of Tackley Parish Council, to discuss the level crossing and the bridleway proposals. Multiple options to close the crossing and divert the bridleway. Whilst none of these options were categorically ruled out during the meeting, the reasons for discounting these options are discussed within Mr. Willson's proof of evidence [NR-W5-1]. In discussion during the meeting (and in a follow up email to JA on the 18th) CB confirmed the Northern Route was still the Estate's preference, it was however agreed by NR and June Collier confirmed the wooded section partly in Tackley Estates and partly in Network Rail ownership, is on a very steep slope down to the river bend, with the bottom area subject

² The third landowner rejected the chance to become involved in this proposal in correspondence to other project members.

	to flooding. With these factors meaning this route may be difficult to achieve from an engineering perspective. In this meeting, NR stated their current preference would be either a ramped footbridge or subway to the south of the level crossing but acknowledged that both would have their challenges. A ramped footbridge would be visually instructive whilst there were concerns over any subway having issues with flooding. Both options were being assessed by NR.
23rd October 2019	JA wrote to CB to explain some of the reasons as to why NR were not pursuing the Northern Route: • Very problematic for construction because there is a steep slope between the railway and the river. • Extensive de-vegetation would also be required for the northern half of the path; and • The path would be of benefit to horse riders but would be of no relevance to station users/walkers/cyclists as the distance to travel would be too far. There would still be a need for a footbridge or underpass near to the station to provide suitable facilities for mobility impaired rail passengers. Mr. Willson's proof of evidence [NR-W5-1] will discuss these reasons in greater detail.
29th October 2019	After a near miss on 16th October involving two crossing users stepping in front of a train approaching the crossing, alongside the previous 13 reported incidents reported between November 2018 and October 2019, an internal decision was made by NR to seek a TTRO to close the section of the bridleway as it crosses over the railway, closing to both bridleway and station users, who would be accommodated by the construction of a temporary footbridge. As the temporary closure did not include a temporary bridleway diversion, JA wrote to CB to inquire whether the Estate would be prepared to accommodate and allow a temporary diversion of the bridleway over their land on the Western side of the railway. The proposed route would follow the previously discussed Infield Route JA3. JA also stated that in terms of the permanent solution to close Tackley level crossing, that the project team would be in contact with CB separately in due course to discuss the next steps for this solution, most notably, undertaking ground investigations, which required access to the Tackley Estate land.
5th November 2019	CB responded to JA asking for further clarification on how many of the near misses involved horses and what the legal status of the temporary diversion would be.

11th November 2019	CB sent and then recalled an email to JA stating the Estate were unable to accept the request, but JA did not receive an updated email from CB after the recall attempt.
12th November 2019	JA responded to CB confirming none of the near misses at Tackley involved horse riders, but this does not mean that none of the near misses were caused by dog-walkers or recreational walkers using the bridleway route for walking. The legal status of the temporary bridleway would be permissive / temporary only. There would be no power for, or duty on, OCC to do anything to it or for it and when the requirement for the temporary bridleway is over the land would revert to its current agricultural-only status. JA also informed CB that Great Western Railway Managing Director Mark Hopwood and Network Rail Wales and Western Route Managing Director Mark Langman were willing to meet with the Estate to discuss further. If the Estate was willing to meet Mr. Hopwood and Mr. Langman, JA's NR colleague from public affairs Toby Elliott would be in contact to arrange.
13th November 2019	After speaking to CB on the phone, the Estate's stance of not being willing to meet or change their mind regarding allowing a temporary diversion was confirmed. The reasoning behind this was the Estate were concerned that the temporary solution would become the permanent solution/bridleway diversion route, something that they have already rejected in discussions with the project. CB confirmed that the Estate were however willing and prepared to help regarding the permanent solution of the subway and were awaiting further contact from the project regarding ground surveys and land purchases
14th November 2019	A joint letter from Great Western Railway Managing Director Mark Hopwood and Network Rail Wales and Western Route Managing Director Mark Langman was sent to the Estate and CB
20th December 2019	CB confirmed to Toby Elliot, NR Western Route Public Affairs Manager that they did not want a meeting with the Great Western Railway Managing Director Mark Hopwood and Network Rail Wales and Western Route Managing Director Mark Langman and reconfirmed their stance on allowing the temporary diversion.
16th May 2021	Carter Jonas, who had been employed since August 2020 to assist NR in arranging access on the Estate to undertake surveys for the subway, informed NR that the Estate was not interested in selling the land required to allow the subway to be constructed. This response led to the project reviewing the situation at Tackley and the options available to close the crossing, including the challenges of

		constructing a subway, especially given the Estates repeated reluctance to sell any land to NR
10th May 2022		JA emailed CB to confirm NR was looking to restart negotiations regarding a bridleway diversion. CB responded stating that Hywel Morse (HM) will taking over the discussions on behalf of the Estate.
17th May 2022		JA sent both CB and HM and the Estate a letter stating NR were looking into the Lineside Route. Laying out the benefits of the route and proposal to the Estate, which included at the time stopping up the Eastern bridleway, the same letter had been sent to OCC as well, who may have a different view to the stopping up [JA7]. JA offered to meet HM on site to discuss the proposal and the history of the bridleway proposals. An online meeting was arranged for 28th June.
28th and 29th June 2022		On 28th, the online meeting was held, during the call, the lineside and infield routes, the Motts Independent Report, and the Eastern bridleway were discussed, It was confirmed during the call that the width of any bridleway was to be 4m and not the previous 3m suggested by JA. It was also discussed that during a conversation JA had recently had with OCC, their preference would be for the Eastern bridleway to remain as a dead-end. OCC's reasoning was that the proposed Lineside Route would be inferior route compared to the existing eastern bridleway.
15th July 2022		HM replied to a JA chase stating the Estate wanted to investigate some matters on the ground before responding to the call and emails from 28 th and 29 th June.
16th August 2022		HM responded to JA stating the Estate's preference for the diversion route was the Northern Route [JA8] JA and CB had discussed this previously in 2019, and the Estate did not want diversion on the west of the Railway. HM also stated that he would be contacting the third landowner involved, Mr. Cottrell-Dormer, to ascertain whether they would be interested in the scheme.
24th August 2022		JA responded to HM stating that the Northern Route had previously been ruled out for the following reasons: 1. Ecological and biodiversity adverse effect due to vegetation clearance and animal habit disruption. 2. The distance of the entire route was approximately 1.2km from the level crossing to the bridge, in total the whole route from the eastern level crossing gate to the western level crossing gate would be circa 2.3km to 3km depending on the route.

	3. The engineering and construction costs of this route would be significant. Mr. Willson's proof of evidence [NR-W5-1] will discuss these reasons in greater detail. To alleviate the Estate's fears of having to be involved with any route over their land on the West of the railway, JA reiterated how if the Estate sold the land to NR needed to create the bridleway route, the Estate would not be liable for the maintenance of the new route, and this would be for Network Rail as the landowner and OCC rights of way department as the highway authority upon the completed diversion of the bridleway. JA also made HM aware that NR were exploring the option of pursuing the closure of the crossing under a Transport and Works Act Order (TWAO) if an agreement could not be agreed for the Lineside Route. It was later confirmed to HM that NR had appointed land agents (Bruton Knowles) to commence the required consultations and land referencing for a TWAO. It was also explained how any TWAO would incorporate the compulsory acquisition of land/rights required for the purposes of the level crossing closure and associated diversion.
5th September 2022	HM phoned JA to inform JA that he was due to discuss the contents of JA's 24 th August email with the Estate on the 6 th September and would revert to JA in due course
27th September 2022	Having not heard from HM, JA emailed to chase a response and state that NR was getting close to a situation where it could not afford to wait on responses from the Estate without it affecting internal programs for the wider railway in the area. It was clearly stated that whilst awaiting a reply, NR was continuing to seek a TWAO to undertake necessary works, however, NR would still very much like to negotiate with landowners, outside of a proposed order.
4th October 2022	HM phoned JA to state he was due to meet with the Estate on the 6 th October to discuss the outcome of their meeting with Charles Cottrell-Dormer, the third landowner for the Northern Route.
October and November 2022	JA chased HM multiple times for a response and update on these discussions with Mr. Cottrell-Dormer.
24th January 2023	HM replies to JA stating that whilst the Estate still preferred the Northern Route, they were prepared to discuss and negotiate for the Lineside Route.
7th February 2023	Joan Halligan (JH) of Bruton Knowles (BK) writes to HM to introduce herself. Nigel Billingsley's Proof of Evidence [NR-W3-1] discusses the BK correspondence with the Tackley Estate.

18th April 2023	HM replies to JH (JA cc'd in) giving details of the Estates fencing specification preferences, hinting at the possibility of the Estate keeping livestock in the field, further ruling out the Infield Route.
13th July 2023	Following a meeting with the BHS to discuss the past and present of Tackley and proposed bridleway solutions, Aimi Blackmore (ex-NR Consultation and Consents Manager) and JA wrote to HM to discuss the possibility of investigating a further route to the very West of their land [JA9] An online meeting was scheduled for the 20th July and an on-site meeting set for 27th July.
27th July 2023	The site meeting occurred with NR, OCC and HM attending. On site the route was walked and discussed with the pros and cons of this and other routes. The meeting ended with NR promising to investigate the route in more detail from an engineering perspective.
20th September 2023	JA and Aimi Blackmore (ex-NR Consultation and Consents Manager) informed HM, OCC, and the BHS that this route was not viable due to several constraints including cost, flooding, drainage, and ecological concerns. This was the last contact JA had with HM and/or the Tackley Estate.

- 4.9 The Network Rail (Tackley Level Crossing) Order was submitted to the Department for Transport on Friday 8th December 2023, the Tackley Estate and Hywel Morse as acting land agent were informed of the submission.
- 4.10 20th September 2023 was the last correspondence JA had with the Tackley Estate and their appointed land agent. The below correspondence was led by Aimi Blackmore (AB) (ex-NR Consultation and Consents Manager)
- 4.11 On Friday 19th January 2024, Hywel Morse met with AB to discuss the bridleway and proposed temporary compounds to facilitate the permanent closure of Tackley level crossing.
- 4.12 During this meeting, HM commented on how his client, Tackley Estates, had reverted on their position of the previously disregarded Infield Route **[JA3]** and the route is now of potential interest. AB wrote to Hywel Morse on 16th February 2024 summarising this position;
- “This route was discussed many times and subsequently disregarded by your client due to unnecessary severance of the land and interference with introduction of livestock to the field. This route is the one that is widely used by those who have been granted licenses by Tackley Estate whilst the level crossing is shut under a Temporary Traffic Regulation Order (TTRO). The conditions stipulated by your client for this proposed route included the request to stop up the existing bridleway, but your client would allow permissive access for as long as Network Rail maintained permissive access over the station. Additionally, the Estate had a requirement for works to the rail bridge over the restricted byway.”*
- 4.13 On 16th February 2024, AB wrote to HM to reiterate the following.

- (a) *Network Rail's primary objective is to close the level crossing and to do so in a manner which seeks to mitigate any adverse impacts, for example to the bridleway network, and which is cost effective and to programme.*
- (b) *Network Rail is of the view that its proposal for the replacement bridleway is safe and cost-effective (being deliverable within existing permitted development rights). It also reduces the impact on your client's land.*
- (c) *Although we acknowledge that, the infield route you propose could re-provide the bridleway connectivity, Network Rail are not in a position to introduce a large alteration to the Transport and Work Act Order (TWAo) as it would cause significant delay and risk to our programme and increase costs, with greater impact on your client's land and as such cannot be seen as the better solution in the round. We note that your client ties the provision of the infield route with a much greater closure of the existing bridleway to the east of the railway line. As such, whilst changing the alignment of the route may remove some objections, the stopping up of the existing bridleway has the potential to introduce even more. The closure of the existing bridleway in its entirety would not be acceptable to many stakeholders and has been discussed at length in the past.*
- (d) *Network Rail will continue to promote its scheme in the TWAo and will not be promoting the increased closure of the bridleway on the eastern side. Should the Tackley Estate seek and obtain any consents necessary for the infield route and be in a position to deliver and dedicate it within the necessary programme, Network Rail would be happy to enter into further discussions at that time with your client regarding the use of that route. The TWAo powers will not preclude the infield route.*

4.14 Since February 2023, engagement with the Tackley Estate has been led by Bruton Knowles (**BK**) in relation to land acquisition necessary under the terms of the TWAo. Network Rail first instructed BK in April 2022, and their appointed agent Nigel Billingsley signed the Statement of Works in May 2022, with BK in contract from August 2022. Nigel Billingsley's Proof of Evidence **[NR-W3-1]** discusses BK's involvement and discussions with the Tackley Estate since this time.

British Horse Society

4.15 In relation to public path orders and TWAo's, as the Order is looking to divert and create a new bridleway route, the BHS are the main body in their role as statutory consultee in regard to horses and bridleways.

4.16 History of Correspondence with the British Horse Society (BHS):

28th August 2018	Alistair Byres (ABYres) (ex-NR Consents Manager) emailed Rachel Livingstone (RL) (Previous BHS field officer in Oxfordshire) to open dialogue with the BHS and to gain a better understanding of the 'key issues' for the BHS on the ground at Tackley.
3rd September 2018	RL replied to ABYres and James Audley (JA) and provided information in relation to level crossings and horse riders. ABYres replied noting the information and clarified that NR were looking for comments to a proposed diversion of the bridleway on the Western side of the railway, over the Tackley Estate's field.

4th September 2018	JA introduced himself to RL and sent her the diversion proposals plan [JA2] and [JA1] Proposal to allow RL and local riders to comment. JA commented on how proposal 1 goes around the field edge of a Tackley Estate owned field (now known as the Infield Route), this route has been discussed briefly with the land agent for the Tackley Estate and so far in the discussions this is their preferred route. Proposal 2 is a proposal to divert the new bridleway to run alongside the railway boundary (now known as the Lineside Route).
8th September 2018	RL replied to AByres and JA that both proposals were unsuitable for horses' riders and the wider Tackley village, the reasons being that both field routes could become muddy and unpassable, with additional safety concerns when a rider is next to the railway. RL in her reply stated how in her discussions with local riders, she had become aware of the "Barwood bridge" proposal and commented on how this would be the perfect solution. The reasons for not going ahead with a "Barwood bridge" proposal is discussed within Mr. Willson's proof of evidence [NR-W5-1].
22nd October 2019	JA responded to RL, apologising for the lack of communication and after months of discussions with stakeholders mainly Tackley Parish Council and Tackley Estate as landowner, NR has concluded that a pedestrian and bridleway subway to the South of the station is the best solution. The subway itself would be split into two sections, one for pedestrian and one for bridleway users. The bridleway section would have a ramp with a gradient of 1 in 15, based on a recommendation from the BHS online documentations. JA asked RL and the BHS's comments on the following. • The best non-slip surface to be used in the subway. • The width required for any bridleway through a subway. • The required minimum depth to allow horses to be led through, mounting blocks are to be provided at both entrances. • Whether cyclists should share with horses or with pedestrians and what this does to required widths.
21st November 2019	After a site meeting between NR (JA, Lynne Halman (LH) and the BHS (RL, Petronella Nattrass (PN) and Mark Watson (MW)) the previous day, LH (ex-NR project manager) provided the minutes / comments. During the meeting, the information requested by JA on 22nd October was discussed and it was confirmed that NR would take these comments into account as they looked to design the proposed subway.
22nd November 2019	PN provided further comments and information to NR in relation to the type of surface best for horses in a subway environment.

4th December 2019	PN replied to an Andy Willson (Ex-NR Project Engineer) email of 25th November 2019 regarding whether horses could dismount for the subway to help the design for the subway over drainage. PN stated some riders prefer not to dismount during a ride for various reasons, stated 3.4m would be the preferred and the minimum in exceptional circumstances would be 2m.
8th January 2020	PN phoned JA to discuss the implementation of the recent TTRO after a near miss on 16th October involving two crossing users stepping in front of a train approaching the crossing, alongside the previous 13 reported incidents reported between November 2019 and October 2019. An internal decision was made by Network Rail to seek a TTRO to close the section of the bridleway as it crosses over the railway, closing to both bridleway and station users, who would be accommodated by the construction of a temporary footbridge. During the phone call, JA explained to PN how discussions with the Tackley Estate to secure a temporary bridleway diversion had failed.
9th January 2020	PN emailed JA to acknowledge and accept the contents of the 8th January call and to seek reassurances that the closure was temporary only and a permanent solution would be coming soon.
10th January 2020	JA replied to PN giving this reassurance the closure would only be temporary stating reasons such as public pressure and how a TTRO cannot become permanent without a permanent solution in place.
23rd January 2020	JA and Emma Hutchins (NR Community Relations) met with PN and June Collier (Head of Tackley Parish Council and a local horse rider) on site to discuss the temporary closure and continue to give reassurance on finding a permanent solution.
25th February 2021	Tony Conn (TC) (ex-NR sponsor) emailed PN to state the subway had now moved to 'development' stage and enquired to the minimum height needed for the subway for both mounted and dismounted horses to pass safely.
10th March 2021	PN replied stating a height of 3.4m would be preferred for the subway but if not possible, the BHS would accept a minimum of 3m, for a mounted horse – and mounting blocks would still be required for those on larger animals. The minimum for a led horse would be 2.7m, to allow sufficient headroom and clearance for the saddle for larger horses.
9th November 2021	JA emailed PN to state and explain why the subway was no longer being considered (the cost of the subway was deemed to be excessive, and Tackley Estate having declined to sell Network Rail the land) and to propose the Lineside Route to the BHS [JA5]. In the email, JA referenced how the BHS's own report [JA6] that there was no evidence showing that it was unsafe to ride/drive horses next to active railway lines on routes shared with walkers and cyclists. Therefore, a proposed bridleway adjacent to the railway should not cause any issues. Placing the bridleway adjacent to the railway would also be more helpful

		towards the landowner (Tackley Estate, who at this stage, were yet to be approached with this proposal).
22nd November 2021		PN replied to JA stating disappointment at this development with the subway and how the Infield Route would be the BHS' preferred option for a diversion route. In relation to the BHS report, PN stated the report was to show no evidential basis to support excluding equestrians from proposed new access on account of proximity to the railway line. From the equestrian perspective, however, while a bridleway alongside a railway is better than nothing when it is a new route on offer, there are understandable concerns when it is to replace an existing, well-established route with pleasant views across open country that is currently a field's distance away from the line, as at Tackley. JA replied to PN informing that NR had instructed an independent report to investigate all the options at Tackley.
30th June 2022		JA confirmed to PN that reengagement had begun with the stakeholders and conversations were in the early stages. PN replied to JA stating concerns over the Lineside Route proposal and the safety of the route next / near to the railway line, and should a horse get spooked or unsettled on this route.
27th January 2023		PN emailed JA requested an update on the scheme and reiterated the BHS's stance against the Lineside Route due to safety concerns. JA responded that there was no update as NR were still trying to engage in meaningful discussions with the Tackley Estate, but to no avail.
25th April 2023		Aimi Blackmore (AB) (ex-NR Consultation and Consents Manager) wrote to Will Steel (WS) Head of Access for the BHS (PN had retired) to update the BHS on the latest regarding the Lineside Route [JA5] . WS was informed of the history of the scheme and discussions with the BHS regarding the lineside report [JA6] and how NR have been told they have taken it out of context.
16th May 2023		JA and AB met with WS and a local rider on site to discuss and walk the proposals, both current and past.
19th May 2023		AB emailed WS with comments from the 16th site visit, including why the "Barwood Bridge" proposal, had been discounted (discussed fully in Mr. Willson's Proof of Evidence [NR-W5-1]) and the current issues regarding achieving the infield route (mainly the Estates stance)
19th May 2023		WS replied to AB with further comments on the safety concerns, such as if the route is fenced on both sides there is no escape route for horses, with the railway being higher, the trains will be at eye-level to the horses, potentially spooking them and the length of the route.

		Mr. Lane's Proof of Evidence [NR-W6-1] speaks to the safety of the Lineside Route and the possible mitigation measures NR could implement.
23rd 2023	May	AB replied to WS, further explaining as to why the "Barwood Bridge" proposal was discounted.
23rd 2023	June	After discussing the Tackley proposal and history with the National Liability Manager, Jerry Greenwood (JG), JA emailed JG with an overview of the history and plans. JG then emailed Geri Coop (GC) (Access and Right of Way Department at the BHS) about the Scheme to help end the current impasse and reach a solution for all.
27th 2023	June	GC replied to JG stating BHS's concerns of the Lineside Route, their preference of the Infield Route and suggested an online call to discuss. JA and AB provided JG with the information on why the Infield Route was not possible, mainly because of the Tackley Estate's stance of not wanting to cause unnecessary severance in their fields.
13th 2023	July	The call between NR (JA, AB, and JG) and the BHS (WS, GC and Sophie Vagg, local field officer for BHS (SV)) took place. During the call, the history of all the options was discussed with JA and AB stating why each option has been discounted. BHS suggested a further alternative idea that didn't appear to have been discounted, a route further west on the Estate's land [JA9] and asked if NR could investigate.
13th 2023	July	In an email after the meeting, GC emailed JA and JG asking whether the Northern Route to the overbridge approximately 1.2km North of the level crossing had been investigated [JA8] .
17th 2023	July	JA replied to GC stating the reasons why the Northern Route had previously been discounted: 1. The lack of interest and communication from the third landowner involved. 2. The engineering challenges, including the very steep embankment without a wooded area. 3. The route would have significant drainage issues as it passes immediately adjacent to the river Cherwell and through a Flood Zone 3 area. 4. The distance of this proposal (in a straight line between the level crossing and the overbridge, which the existing bridleway 379/4/10 crosses, is 1,359yards (1.2km)). This would significantly increase the overall diversion from the eastern side of the level crossing back to the western side of the level crossing at Nethercote Road. In total it would be circa 2.3km to 3km, dependent on the route back through Tackley village.

27th July 2023	The site meeting occurred with NR, OCC and HM attending the site visit. On site the route was walked and discussed with the pros and cons of this and other routes. The meeting ended with NR promising to investigate the route in more detail from an engineering perspective.
20th September 2023	JA and AB informed HM, OCC, and the BHS that this route was not viable due to several constraints including cost, flooding, drainage, and ecological concerns. SV replied to AB asking for clarity on additional land requirements for the Western Infield Route [JA9]
4th October 2023	AB replied to SV stating the Western Infield Route would require additional land <i>“as the proposal did not use the existing PRow network in its entirety. Where it does, it needed to be ‘upgraded’ to a bridleway and would need to be made considerably wider than it is today. As the route enters the field and veers to the right (as you were walking/riding), the route would need to be set back from the current route as there would be an impact on privacy to the properties that back onto the field. The cost for the bridleway alongside the railway is considerably less than the alternative route, as it is shorter and doesn’t require ramps, bridges, and culverts.”</i>

- 4.17 The Order was submitted to the Department for Transport on Friday 8th December 2023, the Tackley Estate and Hywel Morse as acting land agent were informed of the submission.
- 4.18 The last engagement with the BHS was on 1st March 2024, when Aimi Blackmore ((ex-NR Consultation and Consents Manager) (AB) wrote to Will Steel of the BHS in response to the BHS’s objection to the Order. In the letter, AB reiterated the reasons why the Barnwood Bridge, the subway and 'Western Infield Route') (**Western Route**). **[JA9]** had been discounted. Mr. Willson's proof of evidence **[NR-W5-1]** will discuss these reasons in greater detail.

5 OBJECTIONS

- 5.1 In this section I summarise and respond to objections lodged in relation to the proposed Order, insofar as those objections relate to matters principally within my knowledge and remain outstanding at the date of this Proof.
- 5.2 I do not purport to set out here, the intricacies of any one particular outstanding objection received in respect of the Order. I address below, in outline only, what have been common, headline themes of objection:
- (a) Inadequate consultation by Network Rail;
 - (b) Removal of Existing Bridleway and replacement with New Bridleway;
 - (c) Suitability of surfacing, desirability of the route of the New Bridleway, proximity of the New Bridleway to the railway and other issues arising in connection with (asserted) consequential effects of the New Bridleway, as well as its use by equestrians and by others;
 - (d) The length of the diversion for cyclists via the permissive route over the Footbridge (Cycling UK (OBJ/65)); and

- (e) Withdrawal of permissive footpath access over the Footbridge for users wishing to access the Existing Bridleway.

Inadequate of consultation by Network Rail

- 5.3 In a number of objections, a concern was raised that there have been no published consultations with key stakeholders, such as the Tackley Estate, Tackley as a Village, and the BHS, and especially OCC (public rights of way department).
- 5.4 The above tables are a history of NR's correspondence and discussions with these key stakeholders. It is considered that the consultation undertaken has been more than adequate.
- 5.5 In reference to OCC specifically, NR regularly consulted with OCC in their capacity as the Highway Authority, including regular meetings with the Public Rights of Way Officers. This is evidenced at a high-level overview of consultation with OCC can be found within the NR07 consultation report [APP5]:
- 5.1.4 within the table, denotes that OCC are a relevant statutory consultee under The Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006, and as such have been consulted on the proposals;
 - 5.3 provides an overview of consultation with OCC, which began in 2019, and states "The Highways Authority plays an especially important role in this Scheme due to the proposed creation of the new bridleway and upgrade of the existing footpath to re-designate it as a bridleway." "Contact began in 2018 / 2019, around the time discussions about Tackley level crossing began. Regular consultation meetings have occurred monthly since January 2023, in tandem with meetings with West Oxfordshire District Council"
- 5.6 When NR presented the various Bridleway plans and proposals to the wider stakeholders, all of these plans and proposals had been discussed with OCC beforehand and their comments were taken into account incorporated into NR's thought process, understanding and documentation presented to stakeholder.
- 5.7 The Statement of Case of the Bicester and Warden Hill Pony Club [SOC-OBJ-52] suggests (wrongly) that there was no attempt to engage with the riding community. As is evidenced by the correspondence above, significant engagement was had with the BHS.

Removal of Existing Bridleway and replacement with New Bridleway

- 5.8 The closure of the Eastern / Existing Bridleway is not part of Network Rail's proposal under the Order, the only element of the Existing Bridleway being stopped up is the element over the level crossing, within Network Rail's boundary_ [JA5] and as shown in TWAO Document NR09 "Works Plans, Land Plans & PRow Plans".
- 5.9 The Existing Bridleway is staying in place as a cul-de-sac as agreed with OCC, who stated the route was considered an important scenic traffic free route over a significant length (880m, 1.6km there and back).
- 5.10 Therefore, should the Order be granted, resulting in Tackley level crossing being permanently closed and the New Bridleway created, the Existing Bridleway would remain between the Eastern entrance to the station and the junction of the Existing Bridleway, the Existing Byway, and the Existing Footpath.

Suitability of surfacing, desirability of the route of the New Bridleway, proximity of the New Bridleway to the railway and other issues arising in connection with (asserted) consequential effects of the New Bridleway, as well as its use by equestrians and by others

- 5.11 The objections of the Bicester & Warden Hill Pony Club (OBJ/25), BHS (OBJ/60), the Byways and Bridleways Trust (OBJ/51), Tackley Parish Council (OBJ/63), and Mr Andrew Charles Peake (OBJ/70) raised concerns in relation to desirability of the route of the New Bridleway, proximity of the New Bridleway to the railway and other issues arising in connection with (asserted) consequential effects of the New Bridleway, as well as its use by equestrians and by others.
- 5.12 I am aware of correspondence issued by Aimi Blackmore on behalf of Network Rail's consent team on 1st March 2024 in response to these objections. These responses included reference to an 'Equestrian Safety Statement' which was appended to each objection (save for OBJ/25 which included the detail directly rather than by reference to the Equestrian Safety Statement). The Equestrian Safety Statement referred objectors to an internal study undertaken by Network Rail to determine the presence of bridleways located adjacent to railways in England (which subsequently became Appendix 4 to Network Rail's Statement of Case) as well as report provided to Network Rail by the BHS referring to examples of bridleways next to railways.
- 5.13 For completeness however, I confirm that I did not have direct involvement in the above correspondence in relation to Network Rail's response to objections received from these parties, when the TWA was submitted.
- 5.14 Further issues raised in the Statements of Case of the BHS, and of the Bridleways and Byways Trust, and Bicester and Warden Hill Pony Club, variously relating to an asserted reduction in connectivity by reason of the loss of a "link" or more generally; the consequence of losing a "link"; the 'roadification' of a bridleway; a loss of amenity value; as well as the recreational and wider suitability of the New Bridleway, are addressed elsewhere, including in the Proof of Mr. Charles Lane and Anna Holbrook. I am not aware from the correspondence or their objections that these issues of 'roadification' or the loss of a "link" were specifically raised, or at least raised as any prominent or notable point of objection, at any time prior to their Statements of Case.

The length of the diversion for cyclists via the permissive route over the Footbridge (Cycling UK (OBJ/65))

- 5.15 Use of the Existing Bridleway at Tackley is predominantly for recreational purposes. It is not considered that the additional distance of the New Bridleway would detract, materially or at all, from the enjoyment of the proposed extent of new route, by cyclists and for the purpose of cycling. It is not thought that this additional extent would, on the whole, prove at all disincentivising. Further, even if the additional distance did prove disincentivising for some cyclists – which, it is not perceived would involve many – alternative local cycling routes which enable connectivity within the local area generally, would remain entirely unaffected. More generally, there is nothing conspicuously or uniquely valuable about the cyclist's experience along, or usability by cyclists, of the Existing Bridleway that would somehow be 'lost' by virtue of the New Bridleway.
- 5.16 Separately, the current use of the Existing Bridleway by cyclists necessitates them to dismount, and to operate the gates and crossing the railway. In contrast, these 'limitations' will not be experienced in the cyclist's use of the diversion route. The use of the new station

footbridge would impose no or no greater inconvenience (if indeed, it presented any) than dismounting would do at the crossing.

- 5.17 In addition, and of particular note, is that the risk of an incident involving a cyclist and a train, would be completely removed under the Order.
- 5.18 In reference to point 2 of Cycling UK's objections, in relation to Railway Bylaws, cyclists are required to dismount when entering a station. Section 15 "Pedestrian-only areas" of the Railway Bylaws 2005 [JA10] states;

"Section 15. Pedestrian-only areas

(1) Any person who enters, or is on, any part of the railway to which the public have access must be on foot; except

(i) Where this is a notice permitting access to that part of the railway to those with specified conveyances; or

(ii) Where an Operator or an authorised person has given permission,

And in either case he shall obey any instruction given by an Operator or an authorised person.

(2) No person shall be in breach of this Byelaw for properly using a baby carriage or wheelchair, except where this is a notice or instruction given by authorised person to the contrary..."

- 5.19 Fig.1, below, shows the permissive route that would be available via the station and footbridge:



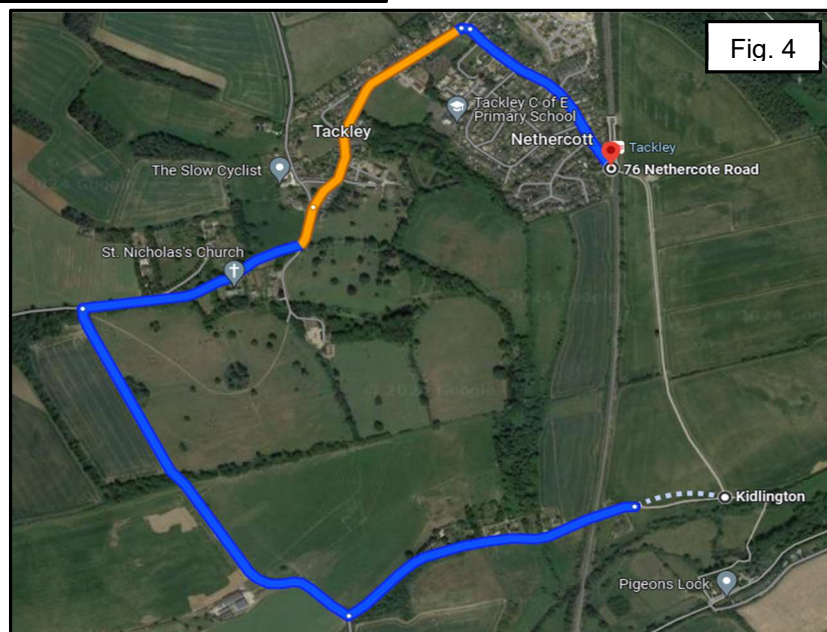
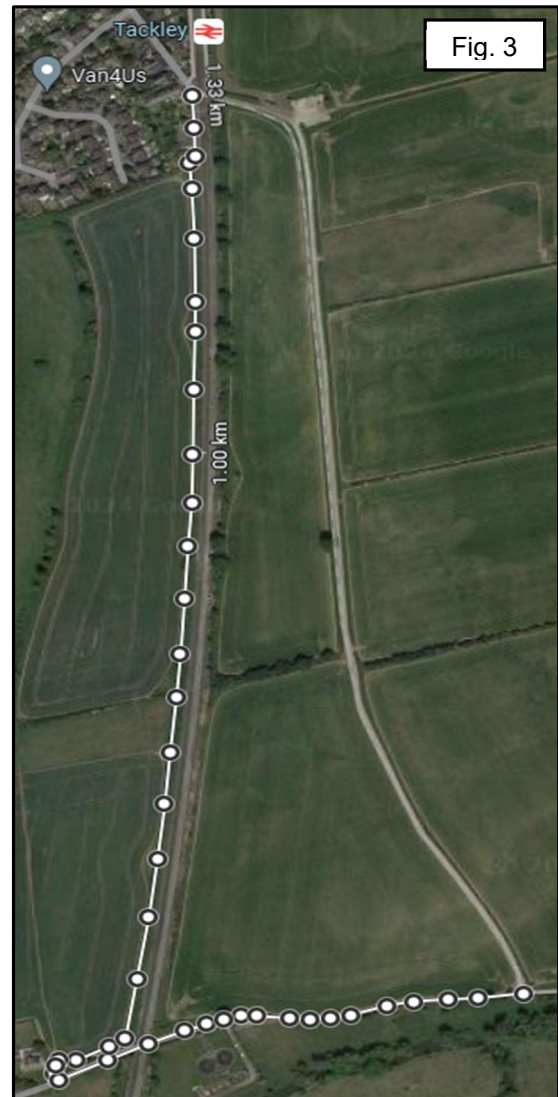
- 5.20 The Existing Bridleway route and the permissive route through the station [Fig. 2] and the New Bridleway route, [Fig. 3] Shows that both routes are similar in length, approximately 1.3km for the New Bridleway route and approximately 1.2km for the Existing Bridleway Route, optimising the footbridge diversion.
- 5.21 The New Bridleway creates a link between two routes which are already designated cycle routes – Nethercote Road being a publicly maintainable highway and Existing Byway and restricted byway 379/3/10, which is a road free access / link, avoiding the route shown below in blue and yellow on Fig. 4. The New Bridleway will also have a type 1 surface suitable for cyclists (and horses) and at 4.5m in width will be sufficient for all users to all the route at the same time, without having to dismount.

- 5.22 The advantage of any cyclist utilising the New Bridleway and station permissive footpath route is two-fold. First, as this route is on higher ground, during a clear and sunny day the route would be more pleasant from visual enjoyment standpoint. Secondly, the route is slightly wider than the Existing Bridleway.

Current bridleway 379/2/10 and station permissive footpath route

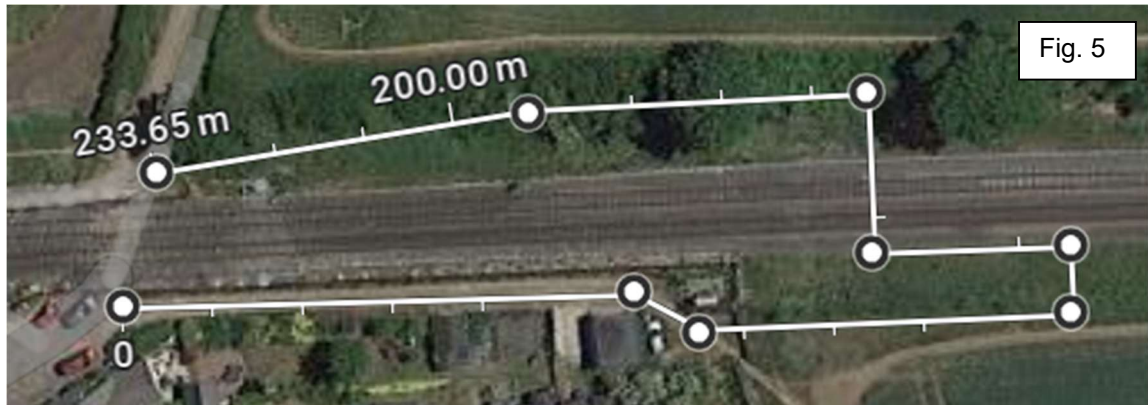


Proposed bridleway route diversion



5.23 The reasons for not going ahead with a subway proposal are discussed within Mr. Willson's proof of evidence [NR-W5-1].

- 5.24 In brief however, this proposal was fully supported and endorsed by all organisations who were consulted with, included Sustrans who are recognised as being the national custodian of cycleways. Whilst the subway would have potentially had enough headroom to mitigate the need for a cycle user to dismount, it is likely that some cyclists would have dismounted as a safety precaution, especially as it was thought the subway could be susceptible to flooding.



- 5.25 Fig. 5 shows the indicative route that a cyclist would have had to take should the subway have been constructed. The additional length of route has been calculated at approximately 260metres, which is comparable to the additional length that is proposed to be seen should the new permissive route be taken over the station bridge. It is therefore not unreasonable to suggest that as the route over the station is small in context of a ride that is likely to be amount multiple kilometres, having to dismount for the station for a total of approximately 230 / 240 meters (and for the safety of all station users) would constitute no or no substantial qualitative 'loss' or inconvenience to the user.

Withdrawal of permissive footpath access over the Footbridge for users wishing to access the Existing Bridleway

- 5.26 Permissive paths are paths used 'by right', with the permission of the landowner (here, Network Rail) and not 'as of right' and so, the permission could be removed at a later date. Network Rail recognises that the new station footbridge can play an important role in improving public access to the countryside, in providing a connection between the village and the current alignment of the bridleway to the east, and Network Rail is prepared to allow the new footbridge to be used in this manner. But it must be understood that this can only be permitted where its use by the public does not interfere with the statutory purpose of running the railway.
- 5.27 Permissive rights of way are used where gaps currently exist on the network. As permissive paths are not legal routes, landowners may impose conditions on their use. This can include restrictions on when the public can use them and how the paths are used (e.g., can only be used during certain periods of the calendar year).

Why Network Rail cannot legally dedicate the footpath, formalising the public right of way?

- 5.28 Network Rail is legally incapable of dedicating a public right of way over its land where that dedication would interfere with railway operations and as to give rise to operational inefficiency. To do so would clearly conflict with the statutory purpose for which the land has been acquired. Known as statutory incapacity, this is because the land needed for the creation and working of a railway was specifically granted for that purpose under an Act of Parliament, and the grant of a permanent right of way would interfere with the statutory

purpose of the rail operator. Statutory incompatibility in relation to public rights at stations and goods yards has been recognised since railways were first introduced; indeed, legislation has been implemented specifically to prevent dedication at railway stations and goods yards (See section 57 of the British Transport Commission Act 1949). **[JA11]** It is also recognised in the Highways Act 1980 where claims for deemed dedication by long user are misconceived or unsuccessful because of the legal operation of the principle of statutory incapacity to dedicate (see section 31(8) Highways Act 1980) **[JA12]**.

- 5.29 As Tackley is an operational station it may, in the future, it is conceivable that it will require operational changes or development that could otherwise be frustrated if a public right was scheduled through the station. It would also prevent gated access should the Train Operator need to impose this, for revenue purposes **[see also Appendix JA13]**. Consequently, access to and through stations can only be offered on a permissive basis so that they can be withdrawn should operational needs require, without having to resort to a statutory process which could raise significant objection that would incur potential delays, costs, or even prevent station change.

Closing the Permissive Path

- 5.30 The process for closing a permissive path is entirely at the discretion of the landowner due to the nature of the path being a route where the landowner permits use, with the intention that it should not become a public right of way.
- 5.31 Network Rail would only withdraw the permissive route only if that were appropriate for operational purposes.
- 5.32 Nevertheless, there may be times where Network Rail is required to close the footpath on a temporary basis, for example, to accommodate engineering works that would restrict use of the path. However, even in these events, once any essential works have been completed, the permissive path would be reopened for continued public use on the permissive basis.
- 5.33 Although landowner's do not generally have to give any advanced notice of their wish to close a permissive path, as a gesture of good faith and in the interests of safety, Network Rail would be prepared (where possible) to provide both Oxfordshire County Council and Tackley Parish Council with appropriate advanced warning of any required closure, intended to be actioned. Notices could also be displayed at the station entrances if there became a requirement to close off the permissive route on either a temporary or permanent basis.

6 WITNESS DECLARATION

- 6.1 This proof of evidence includes all facts which I regard as being relevant to the opinions that I have expressed, and that the Inquiry's attention has been drawn to any matter which would affect the validity of that opinion.
- 6.2 I believe that the facts I have stated in this proof of evidence are true and that the opinions expressed are correct.
- 6.3 I understand my duty to the Inquiry to help with the matters within my expertise and I have complied with that duty.

A handwritten signature in black ink, appearing to read 'J. Audley', with a large, sweeping underline that extends to the right.

Signed:

JAMES AUDLEY

Dated: 21 May 2024