

TRANSPORT AND WORKS ACT 1992

TRANSPORT AND WORKS (INQUIRIES PROCEDURE) RULES 2004

THE NETWORK RAIL (TACKLEY LEVEL CROSSING) ORDER

PROOF OF EVIDENCE OF ANNA HOLBROOK

NEED, OVERVIEW AND SCHEME DEVELOPMENT

21 MAY 2024

1 INTRODUCTION

- 1.1 I, Anna Holbrook, am Industry Programme director, Greater Oxford Area and Senior Sponsor at Network Rail Infrastructure Limited (**NR**). I have been a Senior Sponsor within NR for 6 years.

2 INVOLVEMENT WITH THE PROJECT AND STRUCTURE OF THIS STATEMENT

- 2.1 Network Rail proposes the closure of the Tackley Level Crossing (the **Level Crossing**):

- (a) The Level Crossing will be permanently closed, and a new bridleway (**New Bridleway**) will be diverted along a new route to the west of its current position, running adjacent to the railway to the south. The New Bridleway will comprise the alternative right of way to the Public Right of Way (PRoW) over the Level Crossing that is to be extinguished.
- (b) The existing route of the bridleway (379/2/10) will remain open as a cul-de-sac, with only the portion over the railway being stopped up. This will be accessible by using the new bridleway and existing PRoW network.
- (c) The New Bridleway route will run to the south, adjacent to Network Rail's existing boundary, before joining up with the existing byway (379/25/10). The route of the New Bridleway is shown on **[APP07]**.
- (d) The permanent solution to re-provide for railway purposes the (barrow crossing) functionality of the Level Crossing at the station itself will be a stepped footbridge, with lifts (the Footbridge), installed at the station and spanning across the railway.
- (e) Permissive access over the Footbridge can be provided to non-railway users, including pedestrians and cyclists on foot, along the platforms and over the footbridge unless and until ticket barriers are installed at the station, or Network Rail otherwise determines access to non-railway users should cease.

together this is referred to as the **Scheme**.

- 2.2 I am the Senior Sponsor for this Scheme, acting on behalf of the NR internal client and NR funder for the works.

- 2.3 In this Proof of Evidence I address:

- (a) the nature of the Applicant;
- (b) the Project and need for the Project;

- (c) the development of the Project;
- (d) approach to consultation;
- (e) costs and funding;
- (f) compulsory powers in respect of land; and
- (g) representations and objections received in response to the Order application.

3 APPLICANT

- 3.1 NR owns and operates the rail infrastructure of Great Britain (**Network**). Its purpose is to deliver a safe, reliable and efficient railway for Great Britain.
- 3.2 NR is primarily responsible for the maintenance, repair and renewal of track, stations, signalling and electrical control equipment. Train services on the network are operated by Train Operating Companies (**TOC**) and Freight Operating Companies (**FOC**) to which NR, as facility owner, grants rights to use the network in the form of track, station, and depot access contracts approved by the Officer of Rail and Road (**ORR**).

4 THE SECRETARY OF STATE'S STATEMENT OF MATTERS

- 4.1 The Statement of Matters issued by the Secretary of State for Transport (**Statement of Matters**) sets out for the purposes of rule 7(6) of the Transport and Works (Inquiries Procedure) Rules 2004 the matters about which the Secretary of State for Transport particularly wishes to be informed for the purposes of his consideration of Network Rail's application for The Network Rail (Tackley level Crossing) Order (**Order**).
- 4.2 With respect to the matters raised, these have been covered in NR's evidence and Order application documents as set out in the table below:

Issues Raised in Statement of Matters

No.	Matter	Covered within
1	The aims and objectives of, and the need for, the proposed Tackley Level Crossing Order ("the scheme"), including its effects on railway operations and confirmation all statutory procedural requirements have been complied with, including the adequacy of the consultation conducted.	This Proof of Evidence and the Proofs of Evidence of Jerry Greenwood [NR-W8-1] and of Ian Aston [NR-W7-1] as well as the Consultation Report [APP05]
2	The main alternative options considered by NR and the reasons for choosing the preferred option set out in the Order including the consideration of the safety case for extinguishing the bridleway at the level crossing.	This Proof of Evidence Proofs of Evidence of Ian Aston [NR-W7-1] and of Andy Willson [NR-W5-1]

3	The suitability of the proposed bridleway for all users, including any safety implications of use with horses.	This Proof of Evidence and the Proofs of Evidence of Charlie Lane [NR-W6-1] and of James Audley [NR-W2-1].
4	The impact of the scheme as a whole on: (a) the use of agricultural vehicles by local landowners, and (b) the accessibility for all users.	This Proof of Evidence and the Proof of Evidence of Andy Willson [NR-W5-1]
5	The impact of potential withdrawal of the permissive footpath access over the proposed stepped Footbridge and whether the Footbridge would impact upon neighbouring land.	This Proof of Evidence in relation to the withdrawal of permissive access and the Proof of Evidence of Lisa Bullick [NR-W4-1] regarding neighbouring land.
6	Having regard to the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Department of Levelling Up Housing and Communities Guidance on the “Compulsory purchase process and the Crichel Down Rules for the disposal of surplus land acquired by, or under the threat of, compulsion” published on 29 October 2015 (as amended on 16 July 2019): a. Whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the scheme. b. Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to the Human Rights Act 1998). c. Whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding. d. Whether all the land and rights over land which NR has applied for is necessary to implement the scheme.	This Proof of Evidence and as regards (d) the Proof of Evidence of Andy Willson [NR-W5-1].

7	Any other matters which may be raised at the inquiry which may be important and relevant to the Secretary of State's decision.	N/A
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5 THE SCHEME

5.1 Fundamentally, there is an imperative need to regularise the closure of the Tackley Level Crossing. If the Level Crossing is to be closed, as NR has determined that it must, then there are two matters that NR believes are required to mitigate the impacts of that closure:

- (a) an alternative public right of way must be provided for the right of what this is closed – I am advised that it is the Secretary of State's policy that such an alternative right of way should be suitable and convenient – we are proposing to provide the New Bridleway; and
- (b) arrangements must be made to ensure the on-going functionality of Tackley station, in particular the ability of passengers to gain access to or transfer between both platforms at the station – we are proposing to provide the Footbridge (with lifts).

5.2 Collectively these aspects determine the Scheme. For the Scheme, the proposed Order contains the necessary powers to close the Level Crossing (and extinguish the public right of way over it), permanently acquire land or rights in land necessary for the new bridleway and to possess land temporarily to allow for construction compounds and the carrying out of operations necessary to construct the new bridleway and the Footbridge (with lifts). The New Bridleway and the Footbridge can be constructed under NR's permitted development rights and accordingly the relevant works are not included in the Order. This is explained in the Proof of Lisa Bullock [NR-W4-1].

5.3 As is further set out in the Proof of Lisa Bullock [NR-W4-1], prior approval for the Footbridge has been obtained. I understand that the Inquiry into the proposed Order will not examine the planning merits of the Footbridge.

6 THE NEED FOR THE SCHEME

6.1 This section of my evidence addresses points raised as Item 1 in the Statement of Matters, namely the aims and objectives of, and the need for, the Order.

6.2 The objectives and needs for the Scheme are

- (a) the promotion of safety;
- (b) the improvement of operational resilience of the Network; and
- (c) the facilitation of the provision of capacity improvements for the railway, compatibly with delivery of the Oxfordshire Connect Programme.

6.3 Safety

- (a) The Proof of Jerry Greenwood [NR-W8-1] and section 5 of the Statement of Case sets out NR's responsibilities and Government and NR policies on Level Crossing Strategy and Safety. In particular, NR has established a long-term strategy of reducing level crossing risk. Its long-term strategy targeting improved safety on Great Britain's railway

is set out in its strategy document: “Enhancing Level Crossing Safety 2019- 2029, A long term strategy targeting improved safety on Great Britain’s railway” [APP37]. Designed around ALARP (as low as reasonably practical) the policy builds on Network Rail’s core safety vision of ‘Everyone home safe everyday’, which sits behind its long-term safety objective of no accidents at level crossings, and its commitment to improving level crossing safety, doing all that is reasonably practicable to close crossings and improve safety at those which remain open.

- (b) The Proof of Evidence of Ian Aston [NR-W7-1] sets out a detailed description of the Level Crossing and the safety risk at the Level Crossing. As set out in that Proof the safety risk at the Level Crossing is unacceptably high and in 2008 sadly a fatality occurred at the Level Crossing. The Level Crossing is in the top 10% for risk of the 545 level crossings on the Western Route (being the route from London Paddington to Penzance, through Bristol and up to the boundaries with Wales).
- (c) Following a number of risk assessments and continuing near miss reports (as set out in Mr Aston’s Proof and the Statement of Case [SOC-NR, Table 2]), the Level Crossing has been closed on an emergency basis under a Temporary Traffic Regulation Order since 28 April 2020. Mr Aston reports in his Proof on the consideration that NR has carried out of ways to make the Level Crossing safer. Mr Aston has also produced an Impact Assessment Report (IAR) [XX]. Ultimately, however, as his Proof and the IAR set out NR has been unable to identify satisfactory ways to improve safety at the Level Crossing so as to enable it to remain open.
- (d) The Proofs of Mr Greenwood and Mr Aston set out the present compelling case for closure of Tackey Level Crossing on safety grounds.

6.4 Operational resilience and associated benefits

- (a) Accessibility – the Footbridge will have lifts with capacity for wheelchairs, and will provide a better step free access route for passengers with luggage or bicycles, persons with restricted mobility, people using prams or pushchairs and / or with small children, and passengers.
- (b) Efficiency – Footbridges allow continuous train operations without interruptions, they also allow passengers and pedestrians to cross the railway without waiting for the level crossing to be safe to cross. Similarly, equestrians, cyclists and walkers can make uninterrupted journeys via the New Bridleway without having to wait to use the Level Crossing.
- (c) Capacity – Footbridges do not disrupt train schedules and allow for efficient use of rail infrastructure. The level crossings through this corridor limit the frequency of train movements due to safety concerns. Closure of the level crossing at Tackley will remove one of those crossings which limit capacity through this section of the railway (with Sandy Lane and Yarnton Lane level crossing closures planned for a future point as part of the Oxfordshire Connect programme).
- (d) Safety – closure of the Level Crossing will improve current service performance and resilience by eliminating the risk of conflict between pedestrians, horses and trains, the new footbridge will provide a safe elevated passage over the railway and the new bridleway provides a safe route south to a crossing underneath the railway.
- (e) Performance – reduction of train delays and cancellations caused by serious, safety-related incidents at Tackley Level Crossing. Removal of the level crossing also allows

train service to recover in times of perturbation due unrestricted train movements through Tackley station due to the removal of the level crossing.

- (f) Long term investment - cost savings from avoiding accidents and delays. Footbridges are durable and require less maintenance than level crossings. Investing in a footbridge provides long-term benefits and will encourage people to use rail who have been put off due to safety/accessibility concerns which brings more revenue into the railway.
- (g) Reduction in Liabilities – as explained in the Proof of Mr Greenwood [NR-W8-1], NR is liable to make 'Schedule 8' payments for instances where the network is not available. These can occur due to incidents at level crossings. Closing Tackley Level Crossing will reduce this potential liability.

6.5 **Cost-efficiencies** will also be achieved, which help deliver financial sustainability:

- (a) The cost of the Network will be reduced by removing the need to maintain Tackley Level Crossing as an asset as well as remove the operational and delay costs incurred by its use and any incidents associated with it;
- (b) There will be associated operational and maintenance costs following the installation of the New Bridge. However, this is understood to be less than the current costs of the Tackley Level Crossing and has been considered in the cost-benefit analysis of the Scheme, as a whole. The current level crossing has ongoing maintenance costs associated the crossing, removal and reinstatement costs of the crossing decking to allow for track maintenance works, level crossing inspections and associated vegetation clearance works at the crossing. The costs associated with the operations and maintenance costs of the crossing are estimated to be circa £16k per annum with the new footbridge estimated to cost an estimated £11k per annum.

6.6 **Capacity Improvements and Oxfordshire Connect Programme**

- (a) The closure of Tackley Level Crossing is being proceeded with given the existing safety imperative at that crossing and the clear need to provide this reasonable, permanent solution station which follows on from the urgently imposed temporary closure of this crossing. However, separately, the closure of Tackley Level Crossing also forms an initial, enabling stage of a wider process that will ultimately enable the strategically important unlocking of greater capacity on the Oxford corridor, in addition to allowing for increased linespeed through the station, for non-stopping trains. The remaining stages, which are likely to include the closures of Sandy Lane and Yarnton Lane crossings, are likely also to be brought forward across NR's next two financial control periods as the business case for them becomes further established. The closure of Tackley Level Crossing is as such a crucial first element in delivering the benefits of greater capacity on the Oxford corridor. I set out more detail and background to this below. The Oxford corridor is a key freight route from the port of Southampton to the Midlands and the north. Government policy has announced a rail freight growth target of at least 75% by 2050 recognising the economic and environmental benefits it brings. Future policies set by Government to achieve these targets could see demand forecasts change from current predicted levels so we will continue to monitor freight demand through this section.
- (b) The Oxfordshire Rail Corridor Study that was published in 2021 [APP25] (the **Study**) identified that freight is forecast to increase predominantly across the Strategic Freight Network between the Port of Southampton and the West Coast. Although since the Covid pandemic and following economic recession in the UK, the rate of growth in

demand has slowed and so the timeframe in which we should deliver increased capacity has extended, it remains NR's aim to seek to provide greater capacity on the corridor. Every freight train removes around 76 lorries from our roads, so increasing the number of rail freight services is good for the environment and congestion.

- (c) In terms of what would need to be done to facilitate such growth on the corridor, the Oxfordshire Connect programme identified some necessary interventions. That programme identified a series of improvements to signalling, stations and the railway itself to increase capacity and journey flexibility that would support growth of train services through this corridor. It specified the need for the closure of Tackley, Sandy Lane and Yarnton Lane level crossings, also in Oxfordshire. This was compatible with the risk profiles of those level crossings which would be increased as a result of any increased capacity on the line. The resulting increase in use has been assessed to increase the safety risk at the level crossings to an unacceptable level, as to require the crossings to be closed.
- (d) Further detail on the background to the Oxfordshire Connect programme is set out in the Statement of Case [SOC-NR].
- (e) Presently, the safety risks at Sandy Lane and Yarnton Lane level crossings are not expected to increase (from any increase in capacity demand) to unacceptable levels as soon as previously anticipated. NR has therefore deferred the closure of Sandy Lane and Yarnton Lane level crossings until increased capacity is needed.

7 POLICY

- 7.1 The Proof of Lisa Bullock [NR-W4-1] sets out the local planning context for the Scheme. The Proof of Jerry Greenwood [NR-W8-1] and the Statement of Case [SOC-NR] sets out NR's policy and ORR policy on level crossings, particularly level crossing safety.
- 7.2 The National Networks National Policy Statement (NPS) [APP31] sets out overarching policy in relation to national networks and is a relevant and material consideration for the decision on the proposed Order.
- 7.3 Relevant policies include:

"2.10 Railways are a vital part of the country's transport infrastructure and play a crucial role in growing the economy and meeting the connectivity needs of customers and business.

2.11 Rail journeys are made for many reasons, including to get to work and education, access healthcare services, visit family and friends, and for leisure trips. Even with the impact of the COVID-19 pandemic, 1,385 million passenger journeys took place on the network in 2022-2023, compared to the 1,739 million that took place in 2019-20 before the pandemic.

2.12 In 2022/23, the rail network in Great Britain consisted of 15,846 km (9,846 miles) of route open to services and 2,578 stations.

2.13 In addition to the track and stations, the rail network also covers related infrastructure necessary for the provision of rail services such as depots, maintenance services, marshalling yards and service facilities. Each of these play an important role in the effective running of the railways.

2.14 The rail network is also used to move a number of key commodities, including goods which would be difficult to move by other means, such as construction materials and fuel and power supplies. It also acts as an important link in ensuring both the resilience of the UK supply chain as well as an effective supply chain, which supports lean, competitive business. Rail's market share in 2020 was 8.6% of freight moved. In contrast to passenger rail, freight moved by rail has recovered to a comparable pre-pandemic level. Freight moved in 2021-22 was 16.9 billion net tonne kilometres against 16.6 billion net tonne kilometres in 2019. However, freight moved in 2022-23 was 15.7 billion net tonne kilometres, which is below pre-pandemic levels.

3.71 It remains essential that the safety of the network is maintained and improved. The government continues to invest considerably in rail safety, as well as supporting a strong independent safety regulatory regime, which has been key to the UK having one of the safest railway networks in Europe, and safety performance continues to improve."

- 7.4 These policies demonstrate the importance of a safe and reliable railway network. The Scheme is squarely needed to maintain and improve the safety of the network. The NPS continues:

"3.75 In the short to medium term, the government's policy, as part of its broader transport policy, is to improve the connectivity, capacity and reliability of the railway network in order to realise the benefits of rail to our country. This involves addressing the demand for passenger and freight services (and reconciling the need for these services to effectively run alongside each other), meeting customer needs, unlocking long-term economic growth and new settlements as well as decarbonisation. Interventions may be required to address any of these needs. In all cases, the need for improvements to the rail network, including new rail links, will be balanced against the need to deliver financial sustainability for the rail sector. Continuous improvement to the network is also needed to maintain and enhance the safety of the railway."

- 7.5 As well as being part of the needed continuous improvements to the network needed to maintain and enhance safety of the railway, the Scheme will improve reliability and, as part of the Oxfordshire corridor capacity interventions, accords with the policy of improving capacity and addressing demand for passenger and freight services.

- 7.6 The Scheme is an intervention that is required for those needs. The Scheme is also within the scope of a 'small infrastructure improvement' referred to below as well as being an appropriate improvement to improve capacity and reliability within the scope of the following paragraphs:

"3.76 We will look to meet these needs through better utilisation and renewal of existing assets, including through operational interventions such as timetabling. This reflects the critical importance of ensuring financial sustainability on the railway and securing value for money from existing infrastructure. In some cases, changes to timetabling and small infrastructure improvements such as track and signalling upgrades or platform extensions will improve network reliability and capacity.

3.77 ...The government will look to make appropriate improvements or additions to the rail network to improve capacity, connectivity, and reliability, including removing pinch points and blockages – such as at junctions, upgrading existing infrastructure, reopening old alignments, adding new rail lines and stations to the network, or improving critical enabling assets such as maintenance facilities and depots..."

- 7.7 As I have set out above, the Scheme, as part of the wider Oxford corridor capacity interventions, can provide particular benefits for freight in accordance with the following paragraphs:

"3.78 Government is committed to supporting the growth of rail freight in particular, due to the environmental and economic benefits of the sector. It has an important role to play in our logistics and supply chains. Capacity, connectivity and reliability improvements (including those which facilitate passenger and freight services operating effectively beside one another) alongside seamless modal interchange will make rail a more competitive option against other transport modes for freight, where there are mode shift benefits to be gained, contributing to the government's aim to support the growth of rail freight. Increased connectivity will also allow for a more resilient supply chain, supporting the environmentally friendly and effective transportation of goods as a system package as well as providing freight and supply chain options for large freight generators such as ports.

3.79 The government remains committed to promoting rail freight and it is important the right infrastructure is in place to enable the sector to realise the full range of benefits it can provide economically, environmentally and socially. "

- 7.8 Furthermore, the Scheme is directly in line with the NPS's policies regarding safety on the railway:

"4.60 It is the government's policy, supported by legislation, to ensure that the risks of passenger and workforce accidents are reduced so far as reasonably practicable. Rail schemes should take account of this and seek to further improve safety at every opportunity and where there is value for money in doing so.

4.62 It is the government's policy, supported by legislation, to ensure that the risks of passenger and workforce accidents are reduced so far as reasonably practicable. Rail schemes should take account of this and seek to further improve safety at every opportunity and where there is value for money in doing so.

4.63 The rail industry is required by law to consider the impact on safety of any proposed changes to the rail network through rigorous risk assessment. The principle of "so far as is reasonably practicable" is applied through the Railways and Other Guided Transport Systems (Safety) Regulations 2006 (as amended) which are enforced by the Office of Rail and Road. The rail industry is also required by legislation to comply with applicable Common Safety Methods. This 51 includes the Common Safety Method for Risk Evaluation and Assessment, which applies whenever any significant technical, operational or organisational change is proposed to the railway system."

- 7.9 The Scheme, with the Footbridge arrangement at the station is in accordance with the equalities considerations of the NPS:

"4.75 Applicants must comply with any obligations under the Equality Act 2010. Public authority applicants are reminded of their duty to promote equality and to consider the needs of disabled people as part of their normal practice. The Public Sector Equality Duty⁹⁹ requires that public authorities have due regard to the need to:

- eliminate discrimination, harassment, victimisation and any other conduct prohibited by the Equality Act*
- advance equality of opportunity between people who share a protected characteristic and people who do not share it*
- foster good relations between people who share a protected characteristic and people who do not share it.*

4.76 All applicants are also reminded that the Secretary of State must have regard to the Public Sector Equality Duty when exercising their functions"

- 7.10 In my view the Scheme clearly aligns with these overarching policy aims. Closing the Level Crossing improves current service performance and resilience by reducing train delays and cancellations caused by serious, safety-related incidents at the Level Crossing. Self evidently, closing the Level Crossing enhances the safety of the railway.

8 DEVELOPMENT OF THE SCHEME

- 8.1 The development of this Scheme has been multi-faceted.
- 8.2 Firstly we have had to consider the options for Tackley Level Crossing itself – what could be done to make the Level Crossing acceptably safe in line with the relevant policies? As Mr Aston sets out in his Proof [NR-W7-1] we have considered various options at the Level Crossing (including miniature stop lights, automatic locking of gates, etc.) but for the reasons Mr Aston sets out, they are not suitable options to deliver the necessary safety improvement.
- 8.3 Then, we have considered options that would allow the Existing Bridleway to remain in place, or substantially in place, but be routed over (by way of bridge) or under (by way of subway) the railway, so as to avoid a crossing on the level. We originally hoped a subway would be possible but developed consideration of this option showed that it would not be viable due to the significant increased costs on public money; the considerable disruption to the local community and environment from the construction operations for the ramps down and the removal of large volumes of earth; and the considerable disruption to the railway. Options for a new bridge to carry the bridleway (at Barwood or just over 1km to the north of the station) similarly were not viable in terms of cost and engineering. The detailed consideration of these options and their constraints is set out in Mr Willson's proof [NR-W5-1]. As set out in the proofs of Mr Audley [NR-W2-1] and in the Consultation Report [APP05] we have engaged with local stakeholders as our thinking on these options has developed.
- 8.4 If it is not possible to allow the Existing Bridleway to remain in place then we have to consider what should be done by way of providing a replacement route for the bridleway. Given consultations with the local community, and the Tackley Estate as key local landowner, we are proposing a route that: has the least impact on the surrounding land, in terms of sterilisation; is within the limits of deviation of the existing railway (and accordingly benefits from permitted development rights); and is a suitable and convenient alternative. Over the course of our engagement and consultation exercises, as recorded in the Consultation Report [APP05] and the Proof of Mr Audley [NR-W2-1], other routes for the replacement bridleway have been suggested to us. We have considered them from the point of viability, cost, suitability for all users and suitability for equestrians. These considerations are set out in the proofs of Mr Willson [NR-W5-1] and Mr Lane [NR-W6-1] and in this proof below.

9 CONSULTATION

- 9.1 This consultation undertaken by NR is detailed in the Consultation Report [APP05] submitted with the Order application.
- 9.2 I note that other objectors have raised issues with the consultation and engagement exercises that we have carried out. I am confident that we have consulted and engaged in a complete manner, the detail of which is set out in the Consultation Report [APP05], which demonstrates that, contrary to some complaints raised by objectors, we did engage and consult on the alternative bridleway routes, we did engage and consult Oxfordshire County Council as highway authority, we engaged extensively with the British Horse Society as representative of the riding

community and we have kept the community up to date and engage with our plans as they have evolved away from earlier proposals, such as the subway.

- 9.3 The Proof of Evidence of James Audley [NR-W2-1] sets out further detail of the extensive consultation and engagement that we have undertaken with key stakeholders comprising Oxfordshire County Council as local highway authority, Tackley Parish Council, the Tackley Estate and the British Horse Society.

10 THE NEW BRIDLEWAY

- 10.1 I understand that it is the policy of the Secretary of State in making Orders under the Transport and Works Act 1992 that the alternative right of way should be 'suitable and convenient'.¹ The Secretary of State's approach is that the test does not include a consideration of the enjoyment to be derived from a particular right of way – what is required is a consideration of the proposed alternative route by which users could amply make their journey without affecting (or, materially so) the purpose of that journey.

- 10.2 The Statement of Matters also includes the following matters:

3. The suitability of the proposed bridleway for all users, including any safety implications of use with horses.

4. The impact of the scheme as a whole on: (a) the use of agricultural vehicles by local landowners, and (b) the accessibility for all users.

- 10.3 In my view, the New Bridleway will be suitable and convenient for all users of the crossing, which include dog walkers, pedestrians, runners, cyclists and equestrians:

- (a) it is convenient as it directly replicates the journey previously made by users of the Level Crossing from Tackley village to the east of the railway line – I note that in particular many objectors refer to the value to them of being able to walk to Pigeon's Lock (see for example **OBJ18**) which the New Bridleway will allow;
- (b) it is convenient in that it is of an equivalent distance:
 - (i) The Existing Bridleway between points A1 and A2 of the Land and Rights of Way Plan [APP7] measures approximately 900m; and
 - (ii) The New Bridleway between Commencement of New Bridleway and Termination of New Bridleway on the Land and Rights of Way Plan [APP7] measures approximately 925m with an additional 375m between the Termination of the New Bridleway and point of the Land and Rights of Way Plan [APP7] meaning the total distance of the New Bridleway plus the existing restricted byway up to point A2 is approximately 1.3km; and
- (c) the provisions of the proposed Order require that the highways authority be reasonably satisfied with the New Bridleway (under article 8(3) which will ensure that it is suitable (including meeting current applicable standards).

¹ See for example the decision on the Network Rail (Essex and Others Level Crossing Reduction) Order: <https://assets.publishing.service.gov.uk/media/62309e9ee90e070ed74005bc/essex-level-crossing-reduction-twa-order-decision-letter.pdf>

- 10.4 The New Bridleway will be better for all users than the Level Crossing in that it is far safer. Using the New Bridleway will also be more convenient – there will be no need to use a phone, negotiate double gates or have a worry about approaching trains. Equestrians and cyclists will not need to dismount.
- 10.5 The Proof of Evidence of Charlie Lane **[NR-W6-1]** sets out the suitability of the New Bridleway for equestrian users and the Proof of Evidence of James Audley **[NR-W2-1]** records that the local highway authority (Oxfordshire County Council) has not questioned the suitability of the New Bridleway in general, acknowledging that the Council wishes to be satisfied about the safety of the New Bridleway for equestrian users.

11 PERMISSIVE FOOTPATH OVER THE FOOTBRIDGE

- 11.1 The Footbridge is being constructed at Tackley station to re-provide the functionality that the barrow crossing over the level crossing previously provided at the station. That is to say, it will allow users of Tackley station and railway staff to cross safely from one platform to the other. It will replace the temporary structure currently in place at the station. It will be constructed in compliance with all modern standards and will include lifts². It will provide very good accessibility at the station.
- 11.2 The Footbridge is not being provided as an alternative to the public right of way over the level crossing. The New Bridleway is the alternative to that public right of way. However, recognisant of the value that access across the Footbridge might have to non-railway users, Network Rail is prepared to provide permissive access over the Footbridge for non-railway users. That access can be used by pedestrians and cyclists. However, it is Network Rail's view that that benefit to non-railways users must be secondary to the needs of the operational railway.
- 11.3 I am aware that a number of objectors have complained that the access over the Footbridge will only be on a permissive basis (see for example **OBJ2, OBJ3, OBJ11, OBJ12, OBJ14, OBJ17, OBJ68**, as well as others). The Statement of Matters also raises this as a specific issue (item 5).
- 11.4 Network Rail does not dedicate rights of way over operational railway assets. Indeed, generally speaking Network Rail is unable to do so where it would conflict with the statutory purpose for operational land. Known as statutory incapacity to dedicate, this is because the land needed for the creation and working of a railway was granted for that purpose only, under an Act of Parliament. Generally speaking, where highways do cross operational railway assets, those situations have arisen out of the original legislation that authorised the railway in the first place.
- 11.5 The grant of a permanent right of way over the new Footbridge at Tackley station would, in my view interfere with that statutory purpose. Tackley is an operational station which may, in the future, require significant changes and development, incorporating safety requirements to allow Network Rail to continue to discharge its statutory functions. This may mean that in the future the Footbridge may need to be adjusted or relocated. Temporary closures of the Footbridge may be required for safety reasons to allow for maintenance of the Footbridge itself or of the underlying railway. We may need to prevent access to the Footbridge at times where it is clear that persons intend to make inappropriate use of it, potentially endangering themselves or the railway or interfering with the operation of the railway. Further, it might be necessary to prevent access to allow for the installation and use of ticket barriers or other revenue protection arrangements, where solutions to locate the barriers in ways that retain free access to the Footbridge are not viable. However, in making any decision to rescind the permissive access

² Lifts across the GWR stations have high reliability – they were reported to have an average availability of 98.8% across 2023/4.

permanently, Network Rail would of course be aware of and have regard to the value of the permissive access to the residents of and visitors to Tackley and the surrounding area.

- 11.6 A highway once dedicated must be along a certain route and changes or interference requires consents from the local highway authority – there is no guarantee that such consents would be given or in a timely enough manner. As such, the creation of a highway over the Footbridge would prejudice the discharge of Network Rail's statutory functions.
- 11.7 In terms of the impacts of the withdrawal of the permissive access over the Footbridge, as I have explained, this would of course remove the ability to make trips from Tackley along the Existing Bridleway. However, it would not affect the ability to make journeys from Tackley village eastwards towards Pigeon's Lock and to Kirtlington as this would be possible along the New Bridleway. Further the Existing Bridleway would remain available for amenity use, as a cul-de-sac. I would conclude that the withdrawal of permissive access would not have a material negative effect on local accessibility for all users or upon the life of the village more generally.

12 RETENTION OF THE EXISTING BRIDLEWAY

- 12.1 I note that the Byways and Bridleways Trust in their statement of case [SOC51] explain (para 9) that in relation to the Existing Bridleway "its historical nature and character provide a high amenity value and pleasure from following an old route in touch with nature.." Further, I note for example, that OBJ5 states that the Existing Bridleway is an "ancient footpath" and that "in the past it was almost certainly the Roman road from Tackley Roman villa to Ackerman Street". OBJ12 makes similar references.
- 12.2 I am not qualified to comment on whether or not the historical claims are correct, although I note that there are no applicable heritage designations here as the Proof of Lisa Bullock [NR-W4-1]] demonstrates. However, the key point is that we do not propose to seek the closure of the route of the Existing Bridleway, rather it will only be closed at the point of the Level Crossing. As such, the amenity and pleasure of the setting and history of the Existing Bridleway can still be enjoyed by all users, even where that might be as a cul-de-sac should the permissive access is withdrawn or in the case of equestrians (see in that regard the Proof of Charlie Lane [NR-W6-1]).
- 12.3 The retention of the Existing Bridleway alongside the addition of the New Bridleway does of course result in a material increase in the amount of bridleway provision in the area, with the associated improvement in amenity.

13 COSTS AND FUNDING

- 13.1 As stated in the Funding Statement [APP04], the funding of £361,575 for the implementation of the Order has been approved from the £1.951m Western Route Risk Reductions Fund. The figure of £361,575 includes the costs of acquiring land which is, or may be, blighted land within the meaning of section 149 of the Town and Country Planning Act 1990.
- 13.2 Total funding for the whole Scheme is included in the Western Route Risk Reduction Fund in the Control Period 7 (CP7 - 2024- 2029) business plan. The Anticipated Final Cost for the project is £8.834m.
- 13.3 Table below shows the split out of costs against the three main scope items, full funding for the scheme is allocated in the Network Rail business plan as described above with £1.951m being drawn down to date.

Scope	Costs
The Order	£0.36m
Bridleway works	£0.99m
Footbridge with lifts	£6.38m
Other costs (including access Possession costs and contingency)	£1.10m
Total	£8.834m

14 POWERS TO COMPULSORILY PURCHASE AND USE LAND

14.1 This section of my Proof addresses interference with human rights. This point is further addressed in the Statement of Case submitted on behalf of Network Rail.

14.2 Article 1 of the First Protocol (A1P1) to the European Convention on Human Rights states that:

"Every natural or legal person is entitled to the peaceful enjoyment of his possessions. No one shall be deprived of his possessions except in the public interest and subject to the conditions provided for by the law and by the general principles of international law.

The preceding provisions shall not, however, in any way impair the right of a State to enforce such laws as it deemed necessary to control the use of property in accordance with the general interest or to secure the payment of taxes or other contributions or penalties."

14.3 A1P1 is a qualified right in that no one shall be deprived of his possessions "except in the public interest and subject to the conditions provided for by law."

14.4 The compulsory acquisition of rights and use of land for the railway purposes specified in the proposed Order is authorised by, and subject to the Transport and Works Act 1992 (1992 Act). By enacting the 1992 Act the Government has determined that, subject to procedural safeguards, it can be in the public interest that individuals be deprived of rights in their land for railway purposes.

14.5 The procedural safeguards are provided by the 1992 Act and the Transport and Works (Inquiries Procedure) Rules 2004 which enable objections to be raised to compulsory acquisition and considered by an independent inspector. In addition, where land is authorised to be compulsorily purchased by the making of an order under the 1992 Act, compensation will be payable under the compensation code as applied by that order (as further outlined above). Where disputes as to the amount of compensation arise, these may be referred for independent consideration by the Upper Tribunal (Lands Chamber).

14.6 Furthermore, as set out in the Statement of Case, the compulsory use of land, and acquisition of rights in land, is necessary to facilitate the delivery of the Scheme.

14.7 Item 6 in the Statement of Matters concerns the following issues, which I address:

- (a) Whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the scheme.

For the reasons I have set out above there is a compelling case for the closure of the level crossing for reasons of safety, operational resilience and associated benefits, cost-efficiencies and to unlock future freight capacity growth. As I have set out, if the Level Crossing is to be closed then the Footbridge and the New Bridleway need to be provided to maintain station functionality and local accessibility respectively.

- (b) Whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to the Human Rights Act 1998).

The Order is being pursued in the public interest, as is required by A1P1 where compulsory acquisition of property is concerned. For these reasons, the railway purposes for which the powers in the proposed Order are being sought are sufficient to justify interfering with the human rights of the landowners proposed to be affected. The proposed Order, including the requirement to pay compensation, strikes a fair and proportionate balance between the private interest of the landowners and the public interest in securing the benefits of the Scheme to the national railway network.

To note, NR is not aware of any potential impacts on rights to private and family life, home and correspondence protected under article 8 of the ECHR being affected by this scheme and notes that there is no indication of such impacts in the objections made.

- (c) Whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding.

I have explained above the sources of funding to implement the Scheme (including the powers under the proposed Order). There is no impediment to the implementation of the Scheme (not just the Order powers) from a funding perspective.

The Proof of Lisa Bullock [NR-W4-1] demonstrates that there are no planning or consenting impediments and we set out in [APP08] (List of consents, permissions or licences required under other enactments for the purposes of the powers sought in the application) what other consents are likely to be required to implement the Scheme – I am advised that none of these should represent any impediment to the implementation of the Scheme.

- (d) Whether all the land and rights over land which NR has applied for is necessary to implement the scheme.

The Proof of Andy Willson [NR-W5-1] sets out why the land over which we seek powers of permanent acquisition or temporary use are necessary. He describes the land over which we seek temporary powers in the Order and the use that we will need to make of it (e.g. construction site or construction access). In designing and optioneering this particular scheme we have had regard to using as little additional land as possible and in sterilising or having an effect on the usability of land that we do not acquire that is reduced to a minimum – this is also dealt with in the Proof of Nigel Billingsley [NR-W3-1]. Mr Billingsley explains that the permanent acquisition of land will be limited only to the acquisition of the land over which the New Bridleway will run. It is intended that that land will then transfer to the ownership of the local highway authority under the provisions of the Order. In summary, the powers we are seeking are the minimum necessary to provide for the temporary worksites, compounds and access routes for

the construction of the New Bridleway and the Footbridge as well as the land acquisition for the route of the New Bridleway. We have an immediate and defined use for all land affected.

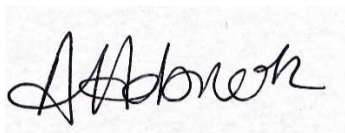
- 14.8 Therefore, I consider that any interference with human rights arising out of the compulsory acquisition or use of land is lawful, proportionate to the public benefit that will be derived from the Scheme and in the wider public interest in order to secure the benefits resulting from the delivery of the Scheme. Any interference with Convention rights is therefore considered to be justified and proportionate. I consider that we meet the criteria for justifying compulsory purchase powers in paragraphs 12 to 15 of the Department of Levelling Up Housing and Communities Guidance on the "Compulsory purchase process and the Crichel Down Rules".

15 CONCLUSION

- 15.1 In my role as Senior Sponsor I conclude that the Scheme is necessary and urgent for the safe, efficient and economic operation of the rail network in this location and to allow for capacity improvements. We have considered alternatives to the closure of the Level Crossing and none were suitable. The Footbridge and New Bridleway are necessary components. The Footbridge can provide permissive access but as I have demonstrated, cannot become a new public right of way.
- 15.2 I also conclude that the New Bridleway diversion is a suitable and convenient alternative route providing accessibility for all users. Impacts on local landowners have been minimised and in the round the Scheme improves accessibility.
- 15.3 The powers we seek are necessary and proportionate in and we have fulfilled all procedural requirements, including as to consultation.

16 WITNESS DECLARATION

- 16.1 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.
- 16.2 I believe that facts I have stated in this proof of evidence are true and that the opinions expressed are correct.
- 16.3 I understand my duty to the Inquiry to help with the matters within my expertise and I have complied with that duty.



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Anna Holbrook

Dated: 21 May 2024