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for Transport

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Dear Sirs,

TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED NETWORK RAIL (ESSEX AND OTHERS LEVEL CROSSING REDUCTION) ORDER

1. I am directed by the Secretary of State for Transport to say that consideration has been given to the report of the Inspector, Mr Alan Beckett BA MSc MIPROW, who held an inquiry between 18 October 2017 and 20 October 2017, 25 September 2018 and 9 November 2018, 20 November 2018 and 23 November 2018, 4 December 2018 and 6 December 2018, and 29 January 2019 and 13 February 2019, into the application made by your clients, Network Rail Infrastructure Limited (“NR”) for:

- a) the Network Rail (Essex and Others Level Crossing Reduction) Order (“the Order”), to be made under sections 1 and 5 of the Transport and Works Act 1992 (“TWA”); and
- b) a direction (“the Planning Direction”) granting deemed planning permission, subject to conditions, for the works that are the subject of the Order under section 90(2A) of the Town and Country Planning Act 1990.

2. Enclosed with this letter is a copy of the Inspector’s Report. All “IR” references in this letter are to the specified paragraph in the Inspector’s Report. All references to documents submitted by NR are also referred to with codes in the form “NR-xx”. The names of objectors, supporters and those who made other representations are accompanied by their reference number in the form “OBJ-xxx”, “SUPP-xxx” or “REP-xxx”.

3. The Order as applied for would allow NR to close or downgrade 61 level crossings in the counties of Essex and Hertfordshire, the Borough of Thurrock, the Borough of Southend-on-Sea and the London Borough of Havering. Between the application and the end of the public inquiry, NR withdrew 4 level crossings (see paragraph 4 below). As such, the Order as considered in this letter would allow NR to close or downgrade 57 level crossings in the above local authorities. The Order would also authorise: the carrying out of works including the removal of the crossings from the railway; the stopping up, diversion or downgrading of rights of way; the construction of new footbridges to carry rights of way over drains or watercourses and the compulsory acquisition of land and interests in land in connection with the construction of the works authorised under the Order.

4. The Secretary of State notes that after submitting the application, NR withdrew 4 level crossings (E12 Wallaces, E42 Sand Pit, E57 Wivenhoe Park and H03 Slipe Lane) from the draft Order (IR 1.15). It is this version of the Order that the Secretary of State is basing his decision on. NR now seeks powers to:
- Close 40 level crossings following provision of a new alternative right of way;
 - Close 13 level crossings where an alternative route already exists (three of which are footbridges over the site of the crossing);
 - Extinguish public rights of way over 2 crossings (private vehicular rights to be kept);
 - Close one crossing which only has private rights of access;
 - Downgrade one crossing from a road to a bridleway with private vehicular rights.

Summary of Inspector's Recommendations

5. The Inspector recommended that the Order should be made, subject to modifications, and that deemed planning permission should be granted subject to conditions as set out in Appendix 10 of the Inspector's Report.

Summary of Secretary of State's Decision

6. For the reasons given in this letter, **the Secretary of State has decided to make the Order with modifications and to give the Planning Direction, subject to conditions set out in Annex A to this letter.**

7. **The table at paragraph 347 of this letter sets out the level crossings that should be included in the Order and those that should be removed.**

Secretary of State's Consideration

8. Careful consideration has been given to all the arguments put forward by or on behalf of all parties. The Secretary of State's consideration of the Inspector's report is set out in the following paragraphs. Where not stated, the Secretary of State can be taken to agree with the recommendations and conclusions put forward by the Inspector.

9. The application for the Order and deemed planning permission was made on 31 March 2017. There were 190 objections outstanding to it at the commencement of the local inquiry, and 196 when it reconvened, two of which have since been withdrawn. In addition, seven letters of support were received along with five representations, two of which have since been withdrawn. There were some objections relating purely to the withdrawn level crossings mentioned in paragraph 4 above which the Inspector did not consider as part of the proceedings.

10. After receiving the Inspector's Report, the Secretary of State received one new representation and one new letter of support, as well as a number of further representations from parties who had already made representations on the application before the Inquiry began. Where not otherwise discussed in this letter, it is the Secretary of State's view that these representations do not raise any new issues that were not considered by the Inspector in his report and also do not give rise to an alternative conclusion or decision on the Order.

11. The Secretary of State issued a screening decision on 15 March 2017 which stated that an Environmental Impact Assessment was not required in relation to the project which is to be the subject of the Order.

Legal and Procedural Matters

12. In making this application, NR complied with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the 2006 Rules”). This included serving copies of the application and the accompanying documents on the persons specified in the 2006 Rules. NR also displayed and published notices giving information about the application and how to make representations and served notice on those whose rights over land would be extinguished under the Order.

13. The Secretary of State notes that on 20 October 2017, the Inspector was notified that a number of parties had not been served notice of the application (IR 1.2). The inquiry was thus adjourned and NR subsequently served notice on those identified. NR served notice on further parties on 8 November and 23 November (IR 1.5). Given that the inquiry was adjourned from 20 October 2017 to 25 September 2018, the Secretary of State is satisfied that all those affected were able to make use of at least the 42-day statutory notice period to consider the effects of the application on their interests, and that the appropriate procedures under the 2006 Rules were followed.

Whether use of the Transport and Works Act 1992 is appropriate

14. The Secretary of State notes there was disagreement between NR and the Ramblers (OBJ-148) over whether it was appropriate for NR to secure the diversion of Public Rights of Way (“PROWs”) over level crossings through a TWA Order, as other mechanisms which could achieve the same were available to NR. The Ramblers contend that the powers to close and divert PROWs over level crossings exist under sections 118A and 119A of the Highways Act 1980 (“the 1980 Act”) and are the correct statutory procedures which should be applied by NR to carry out the level crossing closures under the Order (IR 2.2). The Essex Local Access Forum (“ELAF”) also argued that the 1980 Act was a more appropriate route for the closure and diversion of PROWs that cross railways lines (IR 2.21-2.22).

15. The Secretary of State notes NR’s position (IR 2.23-2.39) that none of the statutory procedures which the Ramblers (OBJ-148) contend should be used instead of a TWA Order could, in fact, be used to achieve the strategic objectives of the application (IR 2.30) and that there is no basis for concluding that a TWA Order is not an appropriate and lawful means of seeking to affect the objects of this Order (IR 2.39). The Inspector’s position (IR 2.40-2.52) is that the relevant sections in the 1980 Act for the stopping up or diversion of PROWs over railway crossings would not confer upon NR the objectives of the Order applied for under the TWA, and therefore, the use of the TWA is appropriate (IR 2.52). The Secretary of State agrees with this.

The tests to be applied

16. The Secretary of State notes the Inspector’s conclusion that there are two stages to the consideration of the Order (IR 2.80). Firstly, the strategic case for the Order must

be considered (IR 2.79); this includes consideration of the merits of NR's case in relation to the making the Order under section 1 of the TWA (IR 2.80). Secondly, if this is accepted, then each crossing should be evaluated against the tests set out in section 5(6) of the TWA, namely, whether an alternative route is required (IR 2.80) and, if so, whether that alternative is suitable and convenient (IR 2.87), as part of reaching his overall conclusion for each crossing, citing guidance that "[i]f an alternative is to be provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users" (IR 2.82). The Secretary of State further notes that both NR and the Ramblers (OBJ-148) are in agreement with this two-stage process (IR 2.54, 2.73, 2.77). The Secretary of State agrees it is appropriate.

17. The Secretary of State notes that the Inspector considers that the test in section 5(6) does not include consideration of the 'enjoyment' to be derived from a particular PROW and that what is required is consideration of the proposed alternative route in terms of whether it would provide a 'suitable and convenient' route by which users could continue to make their journey without affecting the purpose of that journey (IR 2.87). The Secretary of State agrees with the Inspector that an assessment of a proposed alternative route cannot be made simply in the light of those currently using the crossing (who may be young and without mobility impairments) as this is unlikely to discharge the Public Sector Equality Duty ("PSED") (IR 2.90-91). Consideration therefore needs to be given to the needs of both current and potential users to ensure that a proposed alternative does not perpetuate restrictions on those who might qualify as 'existing users' of a crossing (IR 2.92).

18. The Secretary of State notes the Inspector's reference to the strategic case for NR's proposals under SOM4(b). Where not otherwise stated, the Secretary of State is satisfied that the Inspector has taken this matter into account in reaching his conclusion on the case for closing each level crossing.

Equality

19. The PSED, contained in section 149 of the Equality Act 2010, sets out the requirement to have due regard to the need to eliminate unlawful discrimination, harassment and victimisation, and to advance equality of opportunity and foster good relations between people who share a protected characteristic and people who do not share it. The Secretary of State notes NR's approach to this issue as set out in IR 4.85-4.95 and the Inspector's view that NR has had due regard to its PSED obligations (IR 4.197). The Secretary of State further notes the Inspector's consideration of the PSED with regard to each crossing in the corresponding sections of the Report.

Strategic Matters

20. The Secretary of State notes the aims of the proposed scheme set out in IR 3.3- 3.81. The Statement of Aims sets out the benefits which are sought through the Scheme, namely: creating a more efficient and reliable railway; facilitating capacity and line speed increases on the network in the future; improving the safety of level crossing users, railway staff and passengers; reducing delays to trains, pedestrians, and other highway users; and reducing the ongoing operating and maintenance costs of the railway (IR 3.161). The Secretary of State agrees with the Inspector that these benefits would arise from the scheme (IR 3.162).

21. The Secretary of State also agrees with the Inspector that the scheme accords with the National Planning Policy Framework (“NPPF”) as revised when the Inspector’s Report was submitted in July 2020. The Secretary of State notes that the NPPF was further revised in July 2021, and that the sections of the NPPF referenced by the Inspector are all also contained in the 2021 NPPF¹. The Secretary of State further considers that none of the additions to the 2021 NPPF conflict with the scheme, and therefore concludes that the scheme also accords with the NPPF as revised in 2021. The Secretary of State agrees with the Inspector that the scheme accords with national and local transport and environment policy (IR 4.201). The Secretary of State is therefore content that the strategic case for this application has been satisfied.

Level Crossings Considerations

22. The Secretary of State now considers the position of each level crossing to be stopped up or diverted, as set out in section 5 of the IR. Where the Secretary of State concludes that the requirements of section 5(6) of the TWA have been satisfied, namely that (a) an alternative right of way has been or will be provided; or (b) no alternative right of way is required, the Secretary of State will go on to consider other crossing specific matters. This constitutes the second stage of the process outlined in paragraph 16 above.

E01 Old Lane

23. The Secretary of State notes that E01 Old Lane carries public footpath EX/203/13 over the railway (IR 5.1.1) and has been temporarily closed under a Temporary Traffic Regulation Order (“TTRO”), (IR 5.1.3). The Order would confer powers to permanently close the crossing to all users and extinguish existing public rights of way over the level crossing. Existing users would be diverted onto the footpath EX/185/79 to cross the railway at the Wildes level crossing. Users would then continue north of the railway on footpath EX/203/44 to rejoin footpath EX/203/13; a diversion of 150 metres (IR 5.1.5).

24. The Secretary of State notes the Inspector’s view that the extinguishment of part of footpath EX/203/13 would provide some positive impact for the landowners, whose land would no longer be encumbered by a PROW (IR 5.1.14).

25. The Secretary of State notes that whistle boards, which require trains to sound their horns when passing, have been installed at E01 due to insufficient sighting (IR 5.1.4). The Secretary of State notes a further representation received following the close of the examination from Mr O’Shea, which supported E01’s closure due to the noise reductions caused by the whistle boards’ removal.

26. The Secretary of State notes the Inspector’s view that the distance of the proposed alternative is neither excessive nor unreasonable (IR 5.1.21). He further notes the Inspector’s view that the accessibility of the proposed alternative is no more restrictive than at present (IR 5.1.22), and thus a diversity impact assessment (“DIA”) was not necessary and that the PSED has been discharged (IR 5.1.23).

¹ However, paragraph numbers for the referenced sections have, in most cases, changed. Paragraph numbers below refer to the NPPF as revised in 2021.

27. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E01 should be included in the Order as the proposed alternative is a suitable and convenient alternative route (IR 5.1.24).

E02 Camps

28. The Secretary of State notes that E02 Camps carries both public footpath EX/185/75 and a private vehicular access over the railway (IR 5.2.1, 5.2.4). The Order would confer powers to close the crossing to public users and extinguish an adjacent length of footpath EX/185/75, but that private vehicular access would remain. Pedestrians heading south on footpath EX/185/75 would be diverted either east to Sadlers level crossing via the existing PROW network, or west to Wildes level crossing via a new public footpath to link with the existing PROW network (IR 5.2.4, 5.2.5).

29. The Secretary of State notes the objections to the proposal (IR 5.2.24-5.2.47) and the Inspector's conclusion that the proposals are likely to have a mixed impact on the landowner (IR 5.2.49). The Inspector considered that the extinguishment of part of footpath EX/185/75 would reduce the burden on the land associated with the footpath, but the landowners were disappointed that NR did not progress their original proposal to utilise the underpass to the east of Sadlers crossing and to close all footpaths that converge within the farmyard (IR 5.2.49).

30. The landowners and others raise further objections to the route of the new footpath, suggesting that it overlooks Roydon Lea Cottage and thus would have a detrimental impact upon the residential enjoyment and value of the property (IR 5.2.31, 5.2.37). The Secretary of State notes the Inspector's view that such impacts are unlikely to lead to a level of intrusion which could not be mitigated by additional screen planting or by the relevant compensation provisions (IR 5.2.50).

31. Objectors also raised concerns about the route of the proposed new footpath through floristically enhanced field margins subject to a Higher-Level Stewardship ("HLS") scheme, which Weldon Beesly (OBJ-133) contends is not conducive to the wildlife conservation aims of the HLS scheme (IR 5.2.29, 5.2.35). The Secretary of State notes the Inspector's view that, should the Order be made, the HLS margin may have to be moved further into the arable field with a consequential loss in the productive viability and capacity of the land and that the proposals may lead to a consequential loss from the HLS agreement. However, the Inspector's view is that such impacts could be compensated (IR 5.2.51) and that any disturbance or loss arising may form the basis for a claim for compensation (IR 5.2.56).

32. The Secretary of State notes that whistle boards are present at E02 (IR 5.2.3). The Secretary of State notes a further representation received following the close of the examination from Mr O'Shea, which supported E02's closure due to the noise reductions caused by the whistle boards' removal.

33. The Secretary of State notes the objections to the length of the alternative route (IR 5.2.25, 5.2.27, 5.2.34, 5.2.40), but also notes the Inspector's view that, given the use of E02 is mainly likely to be recreational, the increased distance of 950 metres is unlikely to inconvenience most users (IR 5.2.58).

34. The Secretary of State further notes that the proposed alternative footpath crosses the access road to a concrete crushing plant frequented by large vehicles and poses a high risk to walkers (IR 5.2.32). The Inspector concludes that the risk is similar to that of using the existing railway crossing at E02, and that good design of the crossing point can mitigate this risk (IR 5.2.59). The Secretary of State further notes the Inspector's conclusion that the proposed alternative route would not disproportionately affect those with protected characteristics and that including this crossing in the Order would not appear to lead to a likelihood that the PSED would not be met (IR 5.2.62).

35. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E02 should be included in the Order as the proposed alternative is suitable and convenient route for existing users of E02 (IR 5.2.63).

E04 Parndon Mill

36. The Secretary of State notes that E04 Parndon Mill carries public footpath EX/185/73 over the railway (IR 5.3.1). The Order would confer powers to close the crossing and extinguish an adjacent length of footpath EX/185/73 (IR 5.3.4). Existing users would be diverted by approximately 680 metres via a new public footpath to connect with the local road network, an existing segregated footway and then in the carriageway over the Parndon Mill Lane overbridge (IR 5.3.5).

37. The Secretary of State notes that there is however no trace of E04 Parndon Mill and the adjacent footpath on the ground with the physical crossing believed to have been removed in the 1950s (IR 5.3.2). As such, NR did not collect usage data (IR 5.3.3).

38. Objections were raised by the landowner, who claims there is no PROW over the land in question, which has been fenced off for 20 years with no means of crossing the railway being present (IR 5.3.17). The Inspector however noted that there is in fact a PROW across this land as shown in the definitive map and statement and that the Order, which includes its removal, would be of benefit to the landowner as it would extinguish any PROW in existence and would free the land of that burden (IR 5.3.21).

39. The Secretary of State notes that, since the application for the Order was made, the land on which the alternative footpath was proposed to be constructed has been developed for housing. The Secretary of State notes that the developer of this land raises an objection to the potential conflict between this footpath and plots 1 and 37 of the development (IR 5.3.18), though NR consider that the development would not preclude a footpath from being constructed (IR 5.3.13). The Secretary of State notes the Inspector's conclusion that, following the construction of plots 1 and 37, there remains sufficient width along this route for a footpath (IR 5.3.22). The Inspector also notes that although the full width of the five-metre working area required for the footpath construction will not be available next to plot 37 (IR 5.3.23), this should not preclude the construction of the footpath and that any disturbance arising could be addressed by the relevant compensation provisions (IR 5.3.24).

40. The Secretary of State notes the Inspector's view, that some pruning may be necessary of overhanging trees in Ram Gorse Wood but that this would be in line with Schedule 2 paragraph 3(c) of the Tree Preservation Order (IR 5.3.28). It was therefore

concluded that the proposed footpath was unlikely to have any adverse impact upon the landscape in the immediate area (IR 5.3.29).

41. The Secretary of State further notes that ramped steps may be required on the new footpath but that as there is currently no means of access to footpath EX/185/73, the Inspector considered a means of linking it with the remaining network to be suitable (IR 5.3.33) and agreed with NR that it has the potential to increase connectivity and accessibility to the network (IR 5.3.35). The Secretary of State notes that the Inspector concluded that the inclusion of E04 in the Order would not appear to lead to a likelihood that the PSED would not be met and the Secretary of State has no reason to disagree with this (IR 5.3.36).

42. The Secretary of State notes the Inspector's conclusion that the proposed alternative is suitable and convenient for those who would use the crossing (IR 5.3.37). The Secretary of State however notes that the Inspector bases his method for assessing the alternative on guidance which states that "[i]f an alternative is to be provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users" (IR 2.82). The Secretary of State notes that there is no trace of the crossing on the ground, and it is believed to have disappeared in the 1950s (IR 5.3.2) and has been unavailable for many years (IR 5.3.31). The Secretary of State has regard to the Inspector's consideration of the definition of 'existing users' as broader than the set of people currently using a crossing (IR 2.88-91), but does not consider that this extends to crossings for which there is no evidence of use nor means by which they could be used for many years, such as E04. The Secretary of State is therefore satisfied that an alternative is not required for the purposes of section 5(6) of the TWA.

43. However, the Secretary of State recognises the highway authority's position that an alternative route should be provided to retain connectivity in the network (IR 5.3.6). The provision of an alternative would also accord with paragraph 100 of the NPPF, which specifies that planning decisions should "protect and enhance public rights of way", and has the potential to improve accessibility at this location according to the DIA scoping study (IR 5.3.8). The Secretary of State considers that these factors weigh in favour of an alternative route being provided, and that these factors outweigh the concerns about the alternative route raised in paragraphs 39 and 41 above, which have been addressed by the Inspector.

44. The Secretary of State accepts the Inspector's recommendation that E04 should be included in the Order (IR 5.3.37). Taking account of the above reasoning, whilst the Secretary of State does not consider that an alternative is required under section 5(6) of the TWA, the Secretary of State welcomes the proposals for enhancing the PROW network which aligns with the NPPF and has included these in the Order. The Secretary of State concludes that, taking account of these matters, E04 should be included in the Order.

E05 Fullers End

45. The Secretary of State notes that E05 Fullers End provides a pedestrian link between Robin Hood Road and Tye Green Road (IR 5.4.1) which is accessible to users with limited mobility (IR 5.4.2). The Order would confer powers to close the crossing to all users and extinguish the existing public rights over it (IR 5.4.5). Existing users would be

diverted along new footpaths to the southwest of E05 and through an existing underpass which is not currently part of a PROW (IR 5.4.5, 5.4.6).

46. The Secretary of State notes the Inspector's conclusion that the proposed alternative would add to the journey times of utilitarian users of E05 (IR 5.4.39, 5.4.40), who are likely to use the crossing on a regular basis (IR 5.4.36). The Inspector concludes that this circuitous alternative route would be likely to inconvenience utilitarian users (IR 5.4.44).

47. The Secretary of State also notes that the Inspector raises two issues with the alternative route's accessibility to users of E05. The first issue is that, as noted in the Equality and Diversity Overview report (NR-121), the increased gradient of the proposed alternative route may restrict its use for some groups such as older people, wheelchair users, and parents with pushchairs (IR 5.4.41), and the feasibility of any solution would not be revealed until the detailed design stage (IR 5.4.38). The second issue is that NR's proposed surfacing material would likely limit the alternative route's accessibility to users with mobility impairments (IR 5.4.42). Hence it is the Inspector's conclusion that the inclusion of E05 in the Order would lead to a likelihood that the PSED would not be met (IR 5.4.43).

48. The Secretary of State further notes the Inspector's conclusion that the proposed lighting and nature of the path surface would further urbanise the landscape (IR 5.4.44).

49. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should **not** be included in the Order as the proposed alternative would not be a suitable and convenient route (IR 5.4.45).

E06 Elsenham Emergency Hut

50. The Secretary of State notes that E06 Elsenham Emergency Hut carries public footpath EX/25/32 over the railway (IR 5.5.1). It has however been closed to the public since 2013 under a TTRO (IR 5.5.3). The Order would confer powers to close the crossing to all users and to extinguish the existing PROW over it (IR 5.5.4). The Order would also confer powers to extinguish public footpath EX/25/7, which crossed the railway at Edges level crossing to the north and which was closed in 2014 (IR 5.5.7). Existing users of E06 would be diverted to cross the railway at the level crossing or stepped footbridge at Elsenham station, then along the footways of New Road and Bedwell Road. Users could continue to use footpath EX/51/14 which would lead to a new field-edge footpath connecting to footpath EX/51/24 (IR 5.5.4, 5.5.5). In addition, the initial proposal meant existing users heading to or from footpath EX/25/15 would be diverted to a new section of footpath to reduce roadside walking; this has been replaced by modified proposals (NR-157) to divert these users along a new section of footway along Old Mead Road (IR 5.5.6). It is this modified proposal in which the Secretary of State bases his conclusion on.

51. The Secretary of State notes the Inspector's consideration of objections to this proposal (IR 5.5.17-5.5.24) but notes that the objection from Mr Braeckman (OBJ-123) was withdrawn on 7 February 2019. The Secretary of State has therefore not considered this objection further.

52. The Secretary of State notes the concern of Fairfield (Elsenham) Limited (OBJ-130) that NR's proposed temporary possession of plots 15 and 16A would prejudice the timely delivery of the proposed open space and cycleway / footway link which forms part of a housing development for which OBJ-130 had submitted an outline planning application at the time of the Inquiry (IR 5.5.19-20). The Secretary of State notes the objection was maintained regarding that issue, and that OBJ-130 also objected to injurious affection and diminution of value in relation to the plots. The Secretary of State further notes that NR would require access to the plots for approximately two months to facilitate works on plot 17A (IR 5.5.14). The Secretary of State understands that OBJ-130's application for outline planning permission was granted on appeal on 22 December 2020².

53. The timing for the two schemes was not clear during the Inquiry, but the Secretary of State consulted with NR via a letter dated 22 September 2020 on potential conflicts between the use of plots 15 and 16A by NR and Fairfield (Elsenham) Limited. NR clarified that, should the proposed path be operational before NR take temporary possession, it would be possible to maintain a 3m-wide path throughout this possession (NR's consultation response dated 6 October 2020). The Secretary of State is therefore satisfied that the proposed temporary possession would not prejudice the delivery of the development as it would be possible to maintain a path throughout, and agrees with the Inspector that it would not cause any significant adverse effect upon OBJ-130's proposals which could not be mitigated by compensation (IR 5.5.26).

54. The Secretary of State notes the Inspector's conclusion that it is unlikely the proposal would have an adverse impact on the landscape, and may have some benefit for agriculture due to the extinguishment of the cross-field footpath EX/25/7, although a burden would remain due to the creation of field-edge footpaths (IR 5.5.27, 5.5.33).

55. The Secretary of State notes the Inspector's conclusion that, despite the views of Elsenham Parish Council (IR 5.5.24), no empirical evidence had been provided to suggest users of the proposed footpath in the vicinity of the M11 motorway would be exposed to a greater risk from poor air quality from the M11 than they already experience in this area (IR 5.5.34).

56. The Inspector noted that there was no evidence to dispute NR's claim that in the past E06 was most likely to have been used for recreational purposes (IR 5.5.35) or that the proposed footpath would be unsuitable for those who used E06 before its temporary closure (IR 5.5.36). The Secretary of State notes the Inspector's conclusion that the proposal provides a suitable and convenient alternative route (IR 5.5.41). The Secretary of State further notes the objections raised to the necessity of the proposed new footpath (IR 5.5.21, 5.5.24), and the Inspector's conclusion that the proposed north-south link would maintain the connectivity provided by E06 (IR 5.5.37). The Secretary of State notes the Inspector's consideration that, although journey times and distances would be increased, the proposals would re-establish a connection in the PROW network. The Inspector concludes that the proposed diversion should introduce no disproportionality (IR 5.5.40). Having regard to this and the matters discussed in the IR, the Secretary of State

² This decision is available at the Planning Inspectorate's website:
<https://acp.planninginspectorate.gov.uk/ViewCase.aspx?caseid=3243744>

considers that E06 should be included in the Order would not appear to lead to the PSED not being met.

57. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E06 should be included in the Order with the modifications shown in the filled-up Order dated 13 February 2019 (NR-190) as the proposed alternative route (as shown on Replacement Sheet 12 (NR-197)) is suitable and convenient (IR 5.5.41).

E07 Ugley Lane

58. The Secretary of State notes that E07 Ugley Lane provides a private means of access over the railway (IR 5.6.1). The Order would confer powers to close the crossing and extinguish all private rights in existence over it. Users would be diverted via the nearby public underbridge on North Hall Road (IR 5.6.5). There were no objections or representations submitted in relation to the proposal for E07 (IR 5.6.8).

59. The Secretary of State notes that that the land either side of E07 is now in fragmented ownership (IR 5.6.7) and notes the Inspector's conclusion that the extinguishment of private rights will thus have no adverse impact upon landowners (IR 5.6.9).

60. The Secretary of State notes that the alternative route is a public carriageway, and the Inspector's view that this is suitable and convenient for users of E07 (IR 5.6.15).

61. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative is suitable and convenient (IR 5.6.16).

E08 Henham

62. The Secretary of State notes that E08 Henham carries public footpath EX/55/26 over the railway (IR 5.7.1). The Order would confer powers to close the crossing to all users and extinguish an adjacent part of footpath EX/55/26, as well as powers to create two new public footpaths to provide an alternative route. Users would be diverted via these paths and the nearby M11 underpass (IR 5.7.5-5.7.8).

63. The Secretary of State notes the objection relating to the alternative route includes concerns that the route of the revised alternative footpath is likely to have adverse impacts upon grazing land (IR 5.7.20). The Secretary of State further notes the Inspector's view that these impacts could be compensated (IR 5.7.25) or mitigated by erecting fencing and suitable gates (IR 5.7.31).

64. The Secretary of State notes Mr Martineau's (OBJ-83) objection that the erection of a fence on the railway boundary would require the felling of trees or removal of branches (IR 5.7.22) but that this is considered to be addressed by NR's revised proposal (IR 5.7.23-24). On 5 October 2018, Mr Martineau withdrew his objection on the condition that trees should not be damaged when new fencing is installed.

65. The Secretary of State notes the Inspector's consideration that the alternative route would be more accessible to all users than the current crossing, given that it would

no longer require the use of steps (IR 5.7.33) or for users to walk along North Hall Road (IR 5.7.35). The Inspector further considered that the alternative route's additional length is unlikely to pose an inconvenience to recreational users, which evidence suggests is the main type of user (IR 5.7.34).

66. The new footpath on the west of the railway was initially proposed to be created as a field edge path adjacent to North Hall Road, but following representations from affected landowners, NR updated the proposal so that the route was moved to still be on the field edge but adjacent to the M11 embankment connecting to bridleway EX/51/21 near to the motorway underpass (IR 5.7.6). The Secretary of State notes that the Inspector considers that there should be no disproportionality introduced by the proposed changes and the inclusion of the crossing in the Order would not appear to lead to a likelihood of the PSED not being met (IR 5.7.37). The Secretary of State notes that NR's updated proposal therefore requires modifications to the draft Order, as outlined in the filled-up Order dated 13 February 2019 (NR-190).

67. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E08 should be included in the Order with the aforementioned modifications as the proposed alternative is suitable and convenient (IR 5.7.38).

E09 Elephant

68. The Secretary of State notes that E09 Elephant carries public footpath EX/41/14 over the railway (IR 5.8.1) and has been temporarily closed to the public since 2015 due to a 'near miss' incident (IR 5.8.3). The Order would confer powers to close the crossing to all users and extinguish an adjacent part of footpath EX/41/14, as well as powers to create a new diversionary footpath to connect with the remainder of footpath EX/41/14 (IR 5.8.4-5.8.6). Users would be diverted via this path, the overbridge on Debden Road, and the local road network. Traffic signals would be installed on the Debden Road overbridge (IR 5.8.5).

69. The Secretary of State notes that there was one supporter of the proposal, who considered the current crossing dangerous and the noise generated by the train whistles invasive (IR 5.8.20). A number of objectors raised concerns about the alternative route with regard to its safety (IR 5.8.21, 5.8.24, 5.8.27) and impact on landowners (IR 5.8.26, 5.8.28).

70. The Inspector's view is that the proposals would have adverse impacts upon two landowners (IR 5.8.32, 5.8.34), both of whose property would be crossed by the proposed diversionary footpaths. The Secretary of State further notes the Inspector's view that these impacts could be addressed by compensation (IR 5.8.32, 5.8.34). The Secretary of State has had regard to Mr Buntens' (OBJ-113) view that the diversionary footpath could be placed outside the boundary of his land (IR 5.8.26), but notes the Inspector concurred with NR's view that the proposed route would avoid potential conflicts between pedestrians and agricultural vehicles (IR 5.8.30).

71. The Secretary of State notes that the proposals would require the installation of new fencing and the clearance of vegetation, and notes the Inspector's view that this should not impact the landscape (IR 5.8.39). The Secretary of State further notes that E09's presence requires trains to sound their horns while passing, and notes the

Inspector's view that there could be benefits for local residents if E09 was closed and this requirement removed (IR 5.8.40).

72. The Secretary of State notes the Inspector's view that the proposed installation of a footway and traffic lights over the Debden Road bridge would allow users of E09 to cross the railway safely, and would improve the safety of those that currently cross the overbridge (IR 5.8.46). The Secretary of State also notes Newport Parish Council's assertion that E09 is used for recreational journeys (IR 5.8.21), and the Inspector's conclusion that the additional length imposed does not appear to be unsuitable or inconvenient for such users (IR 5.8.47, 5.8.49). The Secretary of State notes that current users of footpath EX/41/14 must cross stiles, and notes the Inspector's conclusions that the proposed alternative is likely to offer greater accessibility as stiles are unlikely to be required (IR 5.8.48), and that the inclusion of E09 in the Order does not appear to lead to a likelihood of the PSED not being met (IR 5.8.49).

73. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, as the proposed alternative would be suitable and convenient for those who would wish to use E09, and agrees that E09 should be included in the Order (IR 5.8.50).

E10 Dixies

74. The Secretary of State notes that E10 Dixies carries public footpath EX/41/7 over the railway (IR 5.9.1), and has been temporarily closed since September 2017 (IR 5.9.3) due to concerns around vulnerable users (IR 5.9.4). The Order would confer powers to formally close the crossing and extinguish an adjacent part of footpath EX/41/7 (IR 5.9.5). Users would be diverted via the local road and footpath network to the south (IR 5.9.6). NR therefore do not propose to create any new sections of PROW as NR consider that the existing highway and PROW network provide a suitable and convenient alternative (IR 5.9.5).

75. Objections were raised about the length and safety of the alternative route. In particular, the Inspector notes a number of objectors' concerns that users would not use this route, instead diverting over a shortcut via Bury Water Lane, which has no footway and no accessible verges and is therefore unsafe (IR 5.9.52).

76. The Inspector noted that Newport's population will increase over the coming years due to various projected developments, causing extra pressure on footpaths. NR considered that this would increase risk at E10, which has insufficient sighting for vulnerable users, and are seeking to address this potential increase in risk before the village population expands (IR 5.9.7, 5.9.39). The Inspector noted that whilst some objectors appear to acknowledge that increased use may increase this risk, the preferred solution for some was for a pedestrian overbridge (IR 5.9.39).

77. The Inspector considered that it was likely that E10 was used on an irregular basis for recreational purposes (IR 5.9.47) and noted the DIA's recognition that the proposed alternative route would increase the distance walked by 1,150m, which is likely to pose a problem for people who struggle to walk long distances. The proposed alternative route also includes gradients of over 5%, which could be challenging for older people, wheelchair users and parents with pushchairs (IR 5.9.55).

78. The Inspector noted that the DIA recognised that E10's closure would reduce the risk posed by the crossing for those with protected characteristics, but that the length of the alternative could impact those with protected characteristics disproportionately. The DIA suggested that alternative solutions should be considered. The Inspector considered that there was no evidence that alternatives to the closure of the crossing had been considered (IR 5.9.56).

79. The Inspector considered that the proposed alternative would restrict access for those with mobility impairments (IR 5.9.57), and that if E10 were included in the Order, there is a likelihood that the PSED would not be met (IR 5.9.58). The Secretary of State further notes the Inspector's view that whilst there would be safety benefits to E10's closure, these were outweighed by the negative impacts of the proposed alternative (IR 5.9.57).

80. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E10 should **not** be included in the Order as the proposed route would not be a suitable or convenient alternative (IR 5.9.59).

E11 Windmills

81. The Secretary of State notes that E11 Windmills carries public footpath EX/41/8 over the railway (IR 5.10.1). The Order would confer powers to close E11 and extinguish an adjacent part of footpath EX/41/8, as well as powers to create a new diversionary footpath to connect with the remaining part of footpath EX/41/8 (IR 5.10.4). Users would be diverted via this path and the local road network (IR 5.10.5).

82. There was some support for E11's closure but objections were also received regarding the need to close the crossing and concerns about the alternative route. The Secretary of State notes the Inspector's view that E11's closure would have a positive impact on the landowners across whose land footpath EX/41/8 runs (IR 5.10.21), and would be positive for agricultural land (IR 5.10.28). The Inspector however also considered that the proposed alternative would have a limited adverse impact on the land over which it would run (IR 5.10.28) but noted that there had been no objection from the affected landowner and that any adverse impact on the land could be addressed through compensation (IR 5.10.22).

83. The Secretary of State notes that E11's presence requires trains to sound their horns while passing, and the Inspector's view that some residents may regard it as a beneficial impact if this requirement was removed upon the crossing's closure (IR 5.10.29).

84. The Secretary of State notes the concern that users may be tempted to follow a section of Rookery Lane with poor sightlines rather than using the proposed alternative (IR 5.10.31). However, the Inspector considers that the proposed alternative would limit the extent of on-road walking (IR 5.10.32), maintains the east-west connectivity of the present crossing (IR 5.10.33), may be more accessible to users than the current crossing (IR 5.10.34) and is therefore a suitable and convenient alternative route (IR 5.10.36). The Inspector also concluded that the inclusion of E11 in the Order would not appear to lead to a likelihood of the PSED not being met (IR 5.10.35).

85. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E11 should be included in the Order as the proposed alternative is suitable and convenient (IR 5.10.36).

E13 Littlebury Gate House

86. The Secretary of State notes that E13 Littlebury Gate House carries public footpath EX/31/30 over the railway (IR 5.11.1). The Order would confer powers to close the crossing to all users and extinguish footpath EX/31/30, which runs over it. It would also confer powers to create two new diversionary footpaths and to downgrade the status of a connecting section of byway open to all traffic EX/31/3 to a footpath. Users would be diverted over the new diversionary footpaths and a section of Littlebury Green Road (IR 5.11.5, 5.11.6).

87. Objections were raised regarding the use of E13 and the impact of the alternative footpath on the Audley End Estate (OBJ-066), which contended that the proposal would have an adverse impact on their agricultural activities, though the Inspector considered that this could be addressed by compensation (IR 5.11.29). OBJ-066 also argued that NR land could be used to provide the alternative route, but NR contend that locating the alternative route on their land would place further constraints on the railway's operation (IR 5.11.32).

88. The Secretary of State notes the Inspector's view that E13 provides a utilitarian route between two sides of the village of Littlebury, and that the proposed alternative would be circuitous and counterintuitive and would significantly increase journey times and distances (IR 5.11.42). The Inspector considered that for most current users, the proposed alternative would be highly inconvenient (IR 5.11.42). The Secretary of State notes the outcome of the DIA (IR 5.11.44) and that, while E13's closure would reduce the risk posed by the crossing to those with protected characteristics, the risks posed by the alternative route would reduce any safety benefits (IR 5.11.45).

89. The Secretary of State also notes the Inspector's conclusion that the proposals could restrict access for those with mobility impairments and other 'non-visible' characteristics (IR 5.11.46) such that there is a likelihood the PSED would not be met if E13 were included in the Order (IR 5.11.47). The Secretary of State further notes the Inspector's view that the safety benefits of E13's closure are outweighed by the negative impacts of the proposed alternative (IR 5.11.46). The Inspector therefore considered that the benefits of its closure, including the ability for NR to raise the line speed should E13 be closed (IR 5.11.34), would not outweigh the resulting inconvenience to users (IR 5.11.48).

90. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E13 should **not** be included in the Order as the proposed alternative would not be suitable and convenient (IR 5.11.49).

E15 Parsonage Lane / Margaretting

91. The Secretary of State notes that E15 Parsonage Lane / Margaretting carries a local access road over the railway (IR 5.12.1), connecting the road network to a group of properties and providing onward connectivity to the footpath network (IR 5.12.2). The

Order would confer powers to extinguish all public rights of way over the crossing but would retain private access rights (IR 5.12.5). Existing foot users would be diverted along an existing footpath through a vehicular underpass (IR 5.12.7).

92. The Secretary of State notes that all three objectors to this proposal raised concerns that the locking of the vehicular crossing gates would impede vehicle access to their properties including emergency vehicles (IR 5.12.15, 5.12.16, 5.12.18). The Secretary of State notes that, in response to these concerns, NR has committed not to lock the vehicular crossing gates, which the Inspector considers addresses these concerns (IR 5.12.20).

93. The Secretary of State notes that the Environment Agency had anticipated that E15 would be used as part of the construction and access routes to the proposed Chelmsford Flood Alleviation Scheme as heavy goods vehicles will be required to carry material and machinery to site (IR 5.12.18). The Secretary of State further notes the Inspector's view that, should the Environment Agency seek to use E15 as part of any future flood defence works, access over it would be a matter to be negotiated with NR (IR 5.12.22).

94. The Secretary of State notes that the proposed alternative will increase journey distances by around 130m, but that as pedestrian use appears to be recreational rather than utilitarian, the Inspector considers that such an increase is unlikely to inconvenience users (IR 5.12.29). The Inspector concluded that the negative impact of longer journeys on those who struggle to walk long distances would be outweighed by the safety benefits accrued by not having to cross the railway on the level crossing (IR 5.12.30). The Secretary of State also notes the Inspector's view that use of the underpass appears adequate for use by the public and poses no safety hazards, and that further works such as installing CCTV and handrails should be considered at the detailed design stage (IR 5.12.31).

95. The Secretary of State notes that the current crossing is level and fully paved and therefore can accommodate pushchairs, wheelchairs, and mobility scooters (IR 5.12.4). The Secretary of State further notes that the Environment Agency mentioned the poor condition of the proposed alternative (IR 5.12.18) and the Inspector considered it uneven, though suitable for use by pedestrians (IR 5.12.28). The Secretary of State consulted with NR on this point via a letter dated 22 September 2020, who clarified in their response of 6 October that all onward links from the south-eastern side of the existing route require users to negotiate steps or grassy surfaces. The only locations which are therefore presently accessible to users with reduced mobility are the properties to the southeast of E15, the occupiers of which would retain private access rights over the crossing. NR therefore considers that no existing user of E15 would suffer reduced accessibility.

96. The Secretary of State notes the Inspector's conclusion that, for these reasons, the inclusion of E15 in the Order would not disproportionately affect people with protected characteristics. The inclusion of E15 in the Order (IR 5.12.32) would not appear to lead to a likelihood of the PSED not being met. The Secretary of State has no reason to disagree with this.

97. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E15 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.12.33).

E16 Maldon Road

98. The Secretary of State notes that E16 Maldon Road carries public footpath EX/226/21 over the railway (IR 5.13.1) and has been temporarily closed since 2013 due to insufficient sighting (IR 5.13.2). The Order would confer powers to close the crossing to all users to extinguish the whole of footpath EX/226/21 which runs over it (IR 5.13.5), and to construct a new diversionary public bridleway. Users would be diverted to the south over this bridleway, along the footway of Maldon Road, and then on to the B1002 (IR 5.13.6).

99. The Secretary of State notes the Inspector's view that landowners to the north of E16 would benefit from the proposal as their land will no longer be crossed by footpath EX/226/21, but that the creation of the new bridleway would have a negative impact on the landowner whose land will carry it (IR 5.13.28) and would remove a strip of land from productive use (IR 5.13.39), as well as potential negative impacts upon the occupiers of Whitesbridge Cottages who raised concerns about the bridleway's impact on security, privacy and the farmer's yield and income (IR 5.13.21, 5.13.22, 5.13.23, 5.13.35). The Secretary of State notes the Inspector's conclusion that negative impacts could be mitigated through screening and fencing at the detailed design stage (IR 5.13.34, 5.13.35) as well as compensation for the loss of agricultural land (IR 5.13.39).

100. The Secretary of State notes one key matter raised was whether an alternative route was required (IR 5.13.29). Mr Smith (OBJ-139) considered that an alternative footpath is not required, as footpath EX/226/21 currently leads to a dead end at its northern end where it terminates on the off slip of the A12 (IR 5.13.25 and IR 5.13.30). The Secretary of State however notes the Inspector's conclusion that although the off-slip road may be dangerous for pedestrians to walk along, the adjacent verge is broad and would be capable of carrying pedestrian traffic, so the extinguishment of footpath EX/226/21 would reduce the PROW network in the area (IR 5.13.31). Therefore the Inspector considers that an alternative route is required if E16 is closed and footpath EX/226/21 extinguished (IR 5.13.32).

101. The Secretary of State notes Mr Marshall's (OBJ-018) view that a bridleway would not be a like-for-like replacement (IR 5.13.21) and OBJ-139's view that a footpath should be provided instead of a bridleway (5.13.25). The Secretary of State also notes the Inspector's conclusion that the provision of a bridleway and resulting enhancement in the local rights of way network would comply with the aims of the revised NPPF (IR 5.13.33). The Secretary of State has had regard to paragraph 100 of the NPPF, which specifies that planning decisions should "protect and enhance public rights of way" and agrees with the Inspector that the creation of a bridleway is appropriate in the circumstances (IR 5.13.33).

102. The Secretary of State notes that the proposals would require removal of the crossing infrastructure and the erection and renewal of fencing to prevent trespass from the bridleway, but there will be no other impact on the landscape arising from E16's closure (IR 5.13.40). The Secretary of State further notes that if E16 were closed there

would be no requirement for trains to sound their horns while passing, and the Inspector's view that some residents may regard it as a beneficial impact if E16 was closed and this requirement was removed (IR 5.13.41).

103. The Secretary of State further notes the Inspector's view that the proposed route's increase in the length of a journey by approximately 50 metres is unlikely to inconvenience any users and there should be no disproportionality introduced by the proposed diversion (IR 5.13.45). The Inspector also concludes that, as the proposed alternative is relatively flat, it is likely to increase accessibility for users and enhance the local PROW network (IR 5.13.44). Therefore, the view of the Secretary of State is that there is no likelihood of the PSED not being met.

104. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E16 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.13.46).

E17 Boreham and E18 Noakes

105. The Secretary of State notes that E17 Boreham carries public bridleway EX/213/23 over the railway (IR 5.14.1), and has been temporarily closed since February 2016 due to deficient sighting (IR 5.14.3). The Order would confer powers to close the crossing to the public, and extinguish an adjacent stretch of bridleway EX/213/23 (IR 5.14.8).

106. The Secretary of State notes that E18 Noakes carries public footpath EX/213/24 over the railway (IR 5.14.8). E18 has been officially temporarily closed since 2013 although there is no sign of a crossing on the site and no means by which a member of the public is able to use the crossing, which is believed to have been removed after the construction of the A12 in the 1970s; this severed the link to the B1137 Main Road in Boreham village (IR 5.14.5). The Order would confer powers to close the crossing to the public, and extinguish an adjacent stretch of footpath EX/213/24 (IR 5.14.8).

107. The Secretary of State notes that the two crossings are 400m away from each other (IR 5.14.6) and were considered together by NR (IR 5.14.10). The Order would confer powers to construct a new length of bridleway and to upgrade the part of footpath EX/213/24 to create a circular link between EX/213/23 to the north of E17 to EX/213/48 to the north of E18. Part of bridleway EX/213/23 and a section of footpath EX/213/24 would be extinguished (IR 5.14.8).

108. The Secretary of State notes that both crossings historically connected to rights of way to the south of the A12, whose construction severed these links (IR 5.14.48). The Secretary of State further notes the Ramblers' (OBJ-148) and ELAF's (OBJ-142) submissions that the proposed upgrade of the A12 and a proposed new development to the west could provide an opportunity to reinstate these links (IR 5.14.23, 5.14.30). The Secretary of State agrees with the Inspector's conclusion that NR's proposals should not be delayed due to the hypothetical delivery of a means of crossing the A12 in the future (IR 5.14.48). The Secretary of State notes NR's view that the crossings' closure will not preclude the delivery of a route over the A12 in the future should these new developments provide the need for one (IR 5.14.24).

109. The Secretary of State notes the Inspector's conclusion that the proposals would remove two pedestrian crossings of the railway but would not provide any alternative means of crossing the railway at these locations or within their immediate vicinity (IR 5.14.35). The Secretary of State further notes the Inspector's conclusion that the proposed alternative route would provide additional capacity to the local public bridleway network and allow new circular rides, but that these benefits would arise as a consequence of the closure of the railway crossings which serve a different function entirely. The Inspector concludes that provision of a bridleway which does not lead to a crossing point of the railway cannot be described as being a suitable alternative route for those who would wish to use E17 and E18 if they were available (IR 5.14.50).

110. The Secretary of State notes that NR considered that, as the north-south routes which E17 and E18 carry have been unavailable for many years, it was not necessary to provide a replacement north-south route (IR 5.14.11). It is noted that the Highway Authority recognised the loss of connectivity arising from the A12 and suggested the proposal at these crossings should seek to create a circular path by way of mitigation, which NR have incorporated (IR 5.14.12).

111. The Secretary of State however notes that the Inspector bases his method for assessing the provision of an alternative route on guidance which states that "[i]f an alternative is to be provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users" (IR 2.82). The Secretary of State notes that there is no sign of a crossing on the E18 site and no means by which a member of the public is able to use the crossing; the crossing is believed to have been removed after the construction of the A12 in the 1970s (IR 5.14.5). The Secretary of State has regard to the Inspector's consideration of the definition of 'existing users' as being broader than the set of people currently using a crossing (IR 2.88-91), but does not consider that this consideration of existing users extends to a crossing, such as E18, for which there is no evidence of use nor any means by which it could be used, in addition to longstanding severance. The Ramblers acknowledge this severance from the PROW network to the south of the A12 (IR 5.14.23).

112. The Inspector noted that the proposed new bridleway will not provide a means by which the public can cross the railway at this point or an alternative means of crossing it within the immediate vicinity, and that the new bridleway would not be suitable or convenient for those users travelling north to south and that E17 and E18 should therefore not be included in the Order (IR 5.14.35, 5.14.49-51). While the Secretary of State agrees with the Inspector that the proposed new east-west bridleway will not provide a north-south route over the railway, he is satisfied that an alternative right of way is not required under section 5(6) of the TWA, given the circumstances described for E18 in paragraphs 106 and 111 above (including the lack of use and obstacles to use).

113. While the Secretary of State considers that it is not necessary for NR to provide an alternative route, he welcomes NR's approach to provide additional capacity to the local public bridleway network. This will allow local circular rides where none are currently available although this would be an entirely different function to that of E17 and E18 (IR 5.14.50). The Secretary of State considers that this weighs in favour of allowing the closure of E18, in accordance with paragraph 100 of the NPPF. The Secretary of State notes the Ramblers' (OBJ-148) request that, should the Inspector be minded to recommend the closure of the E17 and E18 crossings, then the footpaths leading up to

the crossing from the north are retained to make clear there was a historic connection point. The Inspector noted that Mr Kenning (acting on behalf of NR) saw no reason why this could not be done (IR 5.14.26). The Secretary of State accepts this and has provided for this in the Order.

114. The Secretary of State therefore concludes that the proposal for E18 should be included in the Order without the extinguishment of footpath EX/213/24. However, the factors mentioned in paragraphs 106 and 111 (including the lack of use and obstacles to use) do not all apply to E17, which is closed temporarily and for which crossing infrastructure does exist (IR 5.14.3). The Secretary of State considers that the Inspector's definition of 'existing users' (IR 2.88-91) in this case applies. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E17 should **not** be included in the Order as the proposed alternative route would not be suitable and convenient (IR 5.14.51).

E19 Potters

115. The Secretary of State notes that E19 Potters carries public footpath EX/105/43 over the railway (IR 5.15.1). The Order would confer powers to close the crossing to the public, extinguish an adjacent length of footpath EX/105/43, and construct a new diversionary footpath (IR 5.15.5). Users would be diverted to the south over this footpath, the existing footpath network, and the footway through the Oak Road underbridge (IR 5.15.6).

116. The Secretary of State notes the Siggers family and H Siggers and Son's (OBJ-173) concern about trespass on, and compulsory purchase of, their land (IR 5.15.20-22), but notes the Inspector's conclusion that the powers being sought are for temporary use of the gateway and access track for works associated with E19's closure (rather than for compulsory purchase), and that measures currently in place to combat trespass would not be affected by the works (IR 5.15.37).

117. The Secretary of State notes that, though objectors raised concerns about the diversion's length, the Inspector concludes that this is unlikely to be significantly inconvenient (IR 5.15.44). The Secretary of State further notes the Inspector's view that, despite objectors' concerns (IR 5.15.16, 5.15.24), the proposed alternative route passing through the Oak Road underbridge was safe in his experience and that there was no evidence submitted which demonstrated that using the footway would expose pedestrians to an unacceptable level of risk (IR 5.15.49).

118. The Secretary of State further notes objectors' submissions that the upcoming upgrade of the A12 would make E19's closure premature (IR 5.15.26). The Secretary of State however notes the Inspector's conclusion that, as set out in relation to E17 and E18, NR's proposals should not be delayed on the basis that a connection over the A12 may be possible at some point in the future if the road scheme is progressed (5.15.48).

119. The Secretary of State notes objectors' concerns that the proposed alternative along footpath EX/105/48 is often so waterlogged as to be impassable (IR 5.15.18, 5.15.23, 5.15.30-33). The Secretary of State further notes the Inspector's view, based on objectors' evidence and site visits, that this path is waterlogged even in dry conditions, obstructed by a significant ditch, and overgrown such that there is "very little evidence" of

the footpath on the definitive line adjacent to Rivenhall Brook (IR 5.15.45, 5.15.46). The Secretary of State also notes that the Inspector highlighted that it was unlikely NR had surveyed footpath EX/105/48 other than via maps and plans (IR 5.15.46). The Inspector concluded that, as the current route along footpath EX/105/43 is clearly located, firm and dry underfoot the proposed alternative cannot be regarded as a suitable alternative as it shares none of these characteristics (IR 5.15.47).

120. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E19 should **not** be included in the Order as the proposed alternative would not be suitable and convenient (IR 5.15.51).

E20 Snivellers

121. The Secretary of State notes that E20 Snivellers carries public bridleway EX/92/34 over the railway (IR 5.16.1). The Order would confer powers to close the crossing to the public and extinguish the PROW over the level crossing, and to construct a diversionary bridleway. Users would be diverted over this bridleway, the local road network and a nearby shared footway/cycleway (IR 5.16.5).

122. The Secretary of State notes the Inspector's view that the creation of a new public bridleway and resultant removal of agricultural land would have an adverse impact on the land over which it would run, but that any such impact could be addressed through detailed design or compensation (IR 5.16.40, 5.16.45).

123. The Secretary of State notes Royal Mail Group's ("RMG") objection to the inclusion of E20 in the Order (IR 5.16.23-25). The Secretary of State notes the Inspector's view that no evidence was submitted to detail how the closure of E20 would adversely affect RMG's operations (IR 5.16.41).

124. The Secretary of State notes Highways England's planned upgrade of the A12 and A120 near E20, with multiple objectors submitting that the closure of E20 would prevent the link being incorporated into this upgrade (IR 5.16.22, 5.16.32, 5.16.37). The Secretary of State agrees with the Inspector that NR's proposals should not be delayed due to the hypothetical delivery of a means of crossing the railway and the revised A12/A120 in the future (IR 5.16.52).

125. The Secretary of State notes the Inspector's conclusion that the alternative route would be suitable and convenient for users of E20 (IR 5.16.58). The Secretary of State notes the objection that horses and riders using the proposed alternative may be put in danger if shocked by the sudden approach of a train (IR 5.16.20), and that users would have to contend with noise and fumes when using the cycleway parallel to the A12 (IR 5.16.29). The Secretary of State further notes the Inspector's conclusion that such disturbance would not unduly inconvenience current users of E20 (IR 5.16.56), who must contend with noise while crossing the railway (IR 5.16.47) and the A12's noise and fumes when making onward journeys to the south (IR 5.16.48). The Secretary of State also notes the Inspector's conclusion that, though the alternative's increased distance may be an issue for some users, its isolated rural position and the physical condition of its approaches should not give rise to disproportionality, and therefore the PSED would be met (IR 5.16.57).

126. The Secretary of State notes objectors' concerns about the safety of the proposed alternative, especially along Cranes Lane and Crabb's lane, which have no verges (IR 5.16.27, 5.16.30). The Secretary of State further notes the Inspector's consideration that both lanes are lightly trafficked by vehicles travelling well below the posted speed limit (IR 5.16.54). The Secretary of State also notes the Inspector's view that the proposed alternative provides a link to the PROW network to the south (IR 5.16.56).

127. The Secretary of State notes that NR's updated proposals for the new bridleway, as shown on Replacement Sheet 30 (NR-105), have been modified to avoid damage to a mature tree close to the field boundary (IR 5.16.46).

128. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E20 should be included in the Order with the modifications mentioned in IR 5.16.46 as the proposed alternative would be suitable and convenient (IR 5.16.59).

E21 Hill House 1

129. The Secretary of State notes that E21 Hill House 1 carries public footpath EX/78/7 over the railway (IR 5.17.1). The Order would confer powers to close the crossing to the public, extinguish an adjacent length of footpath EX/78/7 and any other PROW between farm buildings, and create a new diversionary footpath to link byway open to all traffic EX/78/5 to the remainder of footpath EX/78/7. Users would be diverted to the north-east over this bridleway, Hill House 2 footpath level crossing, and an access road (IR 5.17.4).

130. The Secretary of State notes the objection of J R Crayston & Sons (OBJ-119), who did not dispute E21's closure but did consider that there was no case to provide an alternative path alongside the railway in the field margin and that its creation would be detrimental to wildlife and agriculture (IR 5.17.13, 5.17.14). The Inspector concluded that the proposed additional footpath would have an adverse impact on OBJ-119's landholding and on the productivity of the arable field (IR 5.17.15), but that this could be dealt with through detailed design and compensation (IR 5.17.17).

131. The Secretary of State notes the Inspector's conclusion that the proposed alternative route would be suitable and convenient for users of E21 (IR 5.17.27). The Secretary of State further notes the Inspector's view that the proposed alternative would be of a similar character to the remainder of footpath EX/78/7 (IR 5.17.23), and that its additional length of 225 metres is unlikely to inconvenience users (IR 5.17.24) and, given E21's physical condition and isolated rural location, should cause no disproportionality in its impacts, so the PSED would be met (IR 5.17.26).

132. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E21 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.17.28).

E22 Great Domsey

133. The Secretary of State notes that E22 Great Domsey carries public footpath EX/78/3 over the railway (IR 5.18.1). The Order would confer powers to close the crossing to the public and extinguish an adjacent length of footpath EX/78/3 (IR 5.18.4). The Order would also confer powers to construct a new diversionary footpath over

farmland to link to the remainder of footpath EX/78/3, and to establish a public footpath on Domsey Chase, an existing private access road (IR 5.18.5, 5.18.9). Users would be diverted over these new footpaths and the existing footway/cycleway parallel to the A12, crossing the railway at a nearby overbridge (IR 5.18.5).

134. The Secretary of State notes the objections to the proposal (IR 5.18.19-5.18.26) and the Inspector's conclusion. Inspector considered that the creation of a new footpath and resultant impact on the capacity and productivity of the agricultural land would have an adverse impact on the land over which the footpath would run, but that any such impact could be addressed by detailed design and compensation (IR 5.18.27, 5.18.30).

135. The Secretary of State notes a number of concerns were raised about the creation of a new footpath along Domsey Chase. Ms Partridge (OBJ-205) had concerns that users may step onto the privately-owned verges to avoid vehicles (IR 5.18.23, 5.18.28), but further notes the Inspector's conclusion that this could be addressed through detailed design and compensation (IR 5.18.30). The Secretary of State also notes the Inspector's conclusion that the creation of this footpath is unlikely to have a significant adverse impact on the ability on the occupants of Domsey Cottages to access their properties or for the businesses located at Great Domsey Farm to access their premises (IR 5.18.31). In response to concerns about opening up a private road (IR 5.18.22) the Inspector noted that it was not uncommon for private access roads to also be subject to a PROW and that the character and condition on Domsey Chase does not suggest that a PROW would be incompatible with its current use as a private means of access to a property (IR 5.18.31). The Inspector noted that the diversion of the footpath onto Domsey Chase would impose an additional burden on the residents of Domsey Cottages if it was necessary for works to be undertaken to services buried in the road, as local highway authority consent would be required, but was satisfied that any additional expense this process may cause for owners and occupiers of the cottages could be addressed by compensation (IR 5.18.32).

136. The Secretary of State notes concerns about the safety of users of the proposed alternative, including that its junction with the A12 could result in collisions with turning vehicles. The Secretary of State further notes the Inspector's views that such vehicles would be visibly slowing and indicating, and pedestrians could easily step onto verges to avoid vehicles, and that neither pedestrians nor vehicle users would be put at significant risk of harm by the diversion of the footpath (IR 5.18.40). The Secretary of State further notes concerns about the safety of the Domsey Chase overbridge (IR 5.18.24), but also notes the Inspector's conclusion that vehicles passing over this bridge are likely to be travelling at appropriate speeds and that pedestrians could step onto the verge on the side of the bridge if their use were to coincide with that of a vehicle (IR 5.18.41).

137. The Secretary of State notes the Inspector's view that the alternative would be of similar character and function to the current route (IR 5.18.38, 5.18.43), and that the increase in journey time and distance is unlikely to inconvenience users (IR 5.18.39) and should cause no disproportionality in its impacts, thereby not appearing to lead to a likelihood of not meeting the PSED were it included in the Order (IR 5.18.42).

138. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.18.44).

E23 Long Green

139. The Secretary of State notes that the E23 Long Green footpath was legally closed by a Rail Crossing Extinguishment Order in 2016 (IR 5.19.3). The Secretary of State further notes that the proposed Order would create a PROW over the fully accessible footbridge that replaced the extinguished footpath (IR 5.19.5). There were no objections or representations submitted in relation to the proposal for E23 (IR 5.19.6).

140. The Inspector concluded that, as the footbridge is ramped with a gradient to provide a means of crossing the railway which is accessible to all (IR 5.19.13), it would provide a suitable and convenient alternative for those who would have used E23 before its closure (IR 5.19.15) and the proposals for E23 mean the PSED would be met (IR 5.19.14).

141. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E23 should be included in the Order as it will provide a suitable and convenient alternative route to that extinguished in 2016 (IR 5.19.16).

E25 Church 2

142. The Secretary of State notes that E25 Church 2 carries public footpath EX/149/29 over the railway (IR 5.20.1) and is temporarily closed on safety grounds (IR 5.20.4). The Order would confer powers to close the crossing to the public, extinguish adjacent lengths of footpaths EX/149/29 and EX/132/11 (IR 5.20.6), and formally establish a PROW over an existing permissive footpath which is currently used as a diversion (IR 5.20.9). Users would be diverted over footpath EX/132/23, Turkey Cock Lane including its underbridge, and the permissive footpath (IR 5.20.7). There were no objections or representations submitted in relation to the proposal for E25 (IR 5.20.17).

143. The Secretary of State notes the Inspector's view that the extinguishment of footpath EX/132/11 would have a positive impact on the landowners of the land on which it runs (IR 5.20.18).

144. The Secretary of State notes the Inspector's conclusion that the proposed alternative route would be suitable and convenient for those who would use E25 if it were open and available (IR 5.20.28). The Secretary of State notes that the proposed closure would formalise the current situation for potential users (IR 5.20.9), who currently use the alternative route as there is no way to cross the A12 immediately south of E25 (IR 5.20.25). The Secretary of State notes the Inspector's conclusion that, though the alternative would increase travel distances, the lack of a crossing point of the A12 and the physical condition of E25's approaches mean its inclusion in the Order would not appear to lead to a likelihood the PSED would not be met (IR 5.20.27). The Secretary of State notes the Inspector's view that some road walking would be involved on the alternative route but it would not appear to be unsafe for pedestrians to use as traffic speeds are generally much lower than the speed limit and there are no records of accidents on this road involving pedestrians (IR 5.20.26).

145. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient for those who would wish to use E25 if it

were open (IR 5.20.28). The Secretary of State notes the conclusions made by the Inspector that taking into account all matters raised that E25 should be included in the Order (IR 5.20.29).

E26 Barbara Close

146. The Secretary of State notes that E26 Barbara Close carries public footpath EX/285/18 over the railway (IR 5.21.1). The Order would confer powers to close the crossing to the public and extinguish the PROW over footpath EX/285/18 between footpath EX/285/21 and Lesney Gardens (IR 5.21.4). Users would be diverted over the footways on the local road network and footpath EX/285/21 (IR 5.21.5).

147. The Secretary of State notes the Inspector's view that the proposals are likely to lead to less disturbance for the owners of the properties which abut footpath EX/285/18 with the cessation of members of the public using the footpath to access the crossing (IR 5.21.27).

148. The Secretary of State further notes RMG's objection to the proposals regarding the proposed diversion along Ironwell Lane (IR 5.21.19). The Secretary of State further notes the Inspector's conclusion that, as the proposed works to Ironwell Lane have already been undertaken by a third party, and as the new footway does not appear to have prevented vehicular access, the proposals are unlikely to have any adverse effect on RMG's existing vehicular use of the lane (IR 5.21.28).

149. The Secretary of State notes that the principal issue between NR and the Ramblers (OBJ-148) was the lack of provision of a new right of way (IR 5.21.29). NR argued that the existing public highway provides an alternative right of way such that section 5(6)(b) of the TWA is engaged and no new right of way is required (IR 5.21.30). The Secretary of State agrees with the Inspector that closure of E26 amounts to an extinguishment of public rights (IR 5.21.31) but notes the Inspector's conclusion that the proposals utilising existing public highways and public rights of way would in fact provide an alternative route (IR 5.21.32).

150. The Secretary of State further notes the Inspector's view that, although the proposed alternative would reduce the choice of routes available in the area (IR 5.21.47) and add distance onto some existing journeys (IR 5.21.43), it would maintain east-west connectivity and thus would be convenient for utilitarian journeys (IR 5.21.44). The Secretary of State also notes the Inspector's view that the proposed alternative is relatively flat and more accessible than the existing crossing (IR 5.21.45), and that although it requires three roads to be crossed, these road crossings have dropped kerbs and tactile paving to alert all users to the crossing points and Ironwell Lane appears to be lightly trafficked (IR 5.21.41). The Inspector concludes that, given the impediments which the use of the alternative would remove (IR 5.21.48), the inclusion of E26 in the Order would not appear to lead to a likelihood of not meeting the PSED (IR 5.21.49).

151. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E26 should be included in the Order as the proposed alternative would be a suitable and convenient alternative means of crossing the railway (IR 5.21.51).

E28 Whipps Farmers

152. The Secretary of State notes that E28 Whipps Farmers carries public footpath EX/272/178 over the railway (IR 5.22.1), alongside a private vehicular crossing (IR 5.22.4). The Order would confer powers to close the crossing and extinguish an adjacent length of footpath EX/272/178, the whole of Havering footpath 179, and the private vehicular access (IR 5.22.5). The Order would also confer powers to construct a new diversionary footpath over farmland to Warley Street, a footpath to link from Warley Street to the existing PROW network, and a new access track south of the railway to provide access from St Mary's Lane to allow the private vehicular rights over E28 to be extinguished. Foot users would be diverted over the new footpaths, Puddle Dock level crossing, and the existing footpath network (IR 5.22.6-9).

153. The Secretary of State notes the objections to this proposal (IR 5.22.38-56) and the Inspector's consideration of these.

154. The Secretary of State notes the Inspector's view that, though a private vehicular crossing is proposed to be extinguished, a new means of access would be provided and as such there would be no loss of access to landowner's property from the proposals. Private vehicular access between the north and south of the railway would become more circuitous – though this drawback for the landowner would be somewhat offset by the extinguishment of part of footpath EX/272/178 (IR 5.22.57), which would have a positive impact over the agricultural land over which it runs (IR 5.22.64). The Secretary of State further notes the Inspector's view that the proposed creation of a vehicular access track would have an adverse impact on the use of the field over which it would run, and may have an adverse impact upon the local landscape (IR 5.22.64). However the Secretary of State notes the Inspector's conclusion that there would be no impact on the landscape from the closure of E28 other than the creation of a new vehicular access, the permanent removal of the infrastructure, and the renewal and erection of fencing (IR 5.22.65). The Secretary of State further notes the Inspector's view that the negative impact of the creation of a private vehicular access would only be partly offset by the extinguishment of footpath 179 (IR 5.22.58). The Secretary of State notes the Inspector's conclusion that all these matters could be dealt with through detailed design and compensation (IR 5.22.60, 5.22.64).

155. The Secretary of State further notes that in response to concerns that the proposed alternative would subject users to traffic noise and fumes, the Inspector concluded that users already have to contend with these while making onward journeys from E28 (IR 5.22.66).

156. The Secretary of State notes the Inspector's view that E28 serves primarily a recreational function (IR 5.22.67) and that the main concerns raised about the proposed alternative related to its use of the verge along St Mary's Lane, its length, and various road crossing points (IR 5.22.68). The Inspector concluded that, given current users of E28 must use roadside verges, which does not appear to have caused past problems, their inclusion as part of the proposed alternative is unlikely to lead to future problems (IR 5.22.70). The Secretary of State further notes the Inspector's view that the increased length of the alternative would not inconvenience recreational users (IR 5.22.71).

157. With regard to the concerns about the crossing points, the Secretary of State notes that these related to road crossing points at St Mary's Lane (IR 5.22.47) and Warley Street (IR 5.22.41, 5.22.49). The Inspector concluded that, as the St Mary's Lane crossing point is currently used by the public and has adequate sightlines, its inclusion in the alternative would not be inconvenient to users who may be displaced by the closure of E28 (IR 5.22.73). The Secretary of State also notes the Inspector's acknowledgement that the Warley Street crossing point has good visibility and wide verges on which to stand (IR 5.22.74).

158. The Secretary of State notes S & J Padfield and Partners' (OBJ-155) objection to the proposed new footpath from Puddle Dock level crossing to bridleway EX/272/183 (IR 5.22.53). The Secretary of State further notes that this new path would provide a new east-west connection (IR 5.22.72), in accordance with paragraph 100 of the NPPF, which specifies that planning decisions should "protect and enhance public rights of way".

159. The Secretary of State notes the Road Safety Audit (NR-16) and Sue Tilbrook's proof of evidence (NR-31), which discuss the use of Warley Street overbridge. These detail that pedestrians would be forced to walk in the carriageway, leaving them vulnerable to high-severity injuries from collisions with fast-moving vehicles, compounded by the reduced visibility over the bridge's crest. The Secretary of State further notes the Ramblers' (OBJ-148) view that users of E28 may be likely to use this bridge, which is shorter and more direct than the proposed alternative (IR 5.22.42). The Secretary of State consulted with NR on 22 September 2020 on this point, who clarified in their response of 6 October 2020 that they consider E28 to be used infrequently for leisure purposes. As such, NR contends that users would choose to use the off-road proposed alternative due to its greater amenity value rather than the shorter route over Warley Street bridge. In their response of 6 October, NR also commit to work with the local highway authority to erect signage to show the continuation of the route across Warley Street. The Secretary of State notes this commitment and is content with NR's analysis.

160. The Secretary of State notes the Inspector's conclusion that, given E28's condition and location, its inclusion in the Order would not lead to a likelihood of not meeting the PSED (IR 5.22.77).

161. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E28 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.22.78).

E29 Brown and Tawse

162. The Secretary of State notes that E29 Brown and Tawse carries public footpath EX/313/39 over the railway (IR 5.23.1). The Order would confer powers to close the crossing, and extinguish adjacent lengths of footpath EX/311/39 and Havering footpath 4 (IR 5.23.4). The Order would also confer powers to construct three new diversionary footpaths to link the remaining parts of EX/311/39 with the Childerditch Lane overbridge. Users would be diverted over this bridge via the new footpaths (5.23.5-6).

163. The Secretary of State notes the landowner's concerns of the effects of the construction of new footpaths (IR 5.23.22) and the Inspector's conclusion that, though these footpaths would have an adverse effect on the land over which they would run (IR

5.23.47) and would reduce the productive capacity of arable land (IR 5.23.54), such issues could be dealt with through detailed design and compensation (IR 5.23.49). The Secretary of State also notes the Inspector's conclusion that the construction of steps would cause an adverse but highly localised, non-significant effect on the immediate landscape (IR 5.23.53).

164. The Secretary of State notes that E29 serves primarily a recreational function and that the main issues arising from the objections, including that of Thurrock Council, concerned the view of oncoming vehicles that pedestrians emerging at the parapets on the north-western and south-eastern sides of the bridge would have, and the suitability of steps as access to the road (IR 5.23.58). The Inspector concluded that the proposed alternative is neither suitable nor convenient for users of E29 (IR 5.23.69), noting that the design of the Childerditch Lane bridge obscures visibility (IR 5.23.62-64), meaning the Highway Code stopping distance guidelines are likely to be inappropriate in this case (IR 5.23.61). The Secretary of State notes the Inspector's conclusion that users would not be able to determine whether vehicles are approaching the crown of the bridge, creating a significant risk which is unlikely to be overcome by detailed design given that NR has discounted implementing priority working with a segregated footway (IR 5.23.69).

165. The Secretary of State further notes the Inspector's view that the proposal would reduce access for those with mobility impairments, and its inclusion in the Order is thus likely not to meet the PSED (IR 5.23.70, 5.23.71). The Secretary of State further notes the Inspector's reasoning that this reduced access would occur as the current flat route, which is open to users with a wide range of physical abilities (IR 5.23.67), would be replaced by a route which would require users to negotiate 32 steps on one side of the bridge and 30 on the other to cross the road on a blind summit (IR 5.23.68). The Inspector considered that taking all the matters into account and weighing them in the balance that there are safety and accessibility issues in relation to access over the alternative (IR 5.23.70).

166. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E29 should **not** be included in the Order as the proposed alternative would not be suitable or convenient (IR 5.23.72).

E30 Ferry and E31 Brickyard Farm

167. The Secretary of State notes that E30 Ferry carries public footpath EX/BENF/22 over the railway (IR 5.24.1), and has been temporarily shut since 2014 due to insufficient sighting of oncoming trains (IR 5.24.3). The Secretary of State notes that E31 Brickyard Farm carries public footpath EX/BENF/12 over the railway (IR 5.24.4), and was temporarily shut in 2018 due to overgrown vegetation restricting sighting (IR 24.6). The Order would confer powers to close the crossings and extinguish the footpaths over them (IR 5.24.8-9). It would also confer powers to build a new length of diversionary footpath to link the severed ends of footpaths EX/BENF/22 and EX/BENF/12 with the bridge under Benfleet station. Users would be diverted via this path and underbridge, then via the footway of Ferry Road (IR 5.24.8).

168. The Secretary of State notes the representation and objections to this proposal (IR 5.24.27-5.24.52) and the Inspector's consideration of these.

169. The Secretary of State notes the Environment Agency's concerns about the proximity of Hadleigh Ray flood barrier (OBJ-172, IR 5.24.31). The Secretary of State further notes the Inspector's view that none of the works proposed would have any adverse effect on these flood defences or any other land in which the Environment Agency had an interest, and that the proposal would not impact on flood risk (IR 5.24.57).

170. The Secretary of State notes that the railway forms the southern boundary of the Benfleet and Southend Marshes Site of Special Scientific Interest ("SSSI"), and that the new footpath is proposed to be created just outside this boundary. The Secretary of State further notes the Inspector's conclusion that the proposals are unlikely to affect the SSSI (IR 5.24.58) and that Natural England have not raised any concerns in relation to the proposal.

171. The Secretary of State notes the Inspector's conclusion that the main issues arising from the proposal relate to the length and directness of the proposed alternative path and the impact this would have on users. The Secretary of State also notes objectors' views that, if E30 were shut, E31 could provide an alternative route and that the alternative route through the car park would not be necessary (IR 5.24.40, 5.24.43). The Secretary of State however notes the Inspector's comments at IR 5.24.64 and agrees that, as the proposed route is put forward as an alternative to both crossings, the questions is whether the route is suitable and convenient for both crossings.

172. The Secretary of State notes the Inspector's view that there is no evidence that the crossings are used for utilitarian purposes (IR 5.24.69). The Inspector concluded that only some users' journeys would be made longer, depending on their origin and destination (IR 5.24.67), and that the users whose journeys would be made longer are likely to already be undertaking long journeys, so the proposed alternative's added length would not be inconvenient (IR 5.24.68). The Secretary of State further notes the Inspector's consideration that, despite the added length, the proposed alternative is more accessible to a greater number of users, given that it will be predominantly over level ground with a sealed surface (IR 5.24.65, 5.24.75) unlike the present crossings (IR 5.24.73, 5.24.74), and that its inclusion in the Order is therefore unlikely to lead to a likelihood of not meeting the PSED (IR 5.24.75).

173. The Secretary of State also notes the Inspector's conclusion that the proposed alternative would be almost entirely segregated from vehicles and thus relatively risk free and safe for users (IR 5.24.70). The Secretary of State notes objections that the proposed alternative would be more urban in character and amenity (IR 5.24.71), but also notes the Inspector's conclusion that, as routes to the crossings pass through similar environments, the proposed alternative's character would be unlikely to discourage users (IR 5.24.72).

174. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, these proposals should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.24.76).

E32 Woodgrange Close

175. The Secretary of State notes that E32 Woodgrange Close carries Southend-on-Sea public footpath 189 over the railway (IR 5.25.1). The Order would confer powers to close the crossing and extinguish the whole of footpath 189 between the A13 and

Woodgrange Close (IR 5.25.5). Users would be diverted via two routes: a level route via the footways of the local road network (1.3km), and a route with steps via a shortcut over Butterys and a section of a path corresponding to public footpath 192 (1km). Both routes would use the underbridge on Lifstan Way (IR 5.25.6, 5.25.48).

176. The Secretary of State notes that a number of objections were raised (IR 5.25.15 to 5.25.34). The Inspector concluded that the extinguishment of footpath 189 may cause some restriction upon the ability of pupils of Southend High School for Girls to access the playing fields via Pilgrims Close, but that the school appears to have a private right of access from Pilgrims Close (IR 5.25.35). The Inspector also noted that E32's closure would cause less disturbance for adjacent properties (IR 5.25.36) and that its closure would not adversely affect the ability of the owners and occupiers of the properties on Pilgrims Close to access their properties (IR 5.25.35).

177. The Secretary of State notes Objectors Steve Mulvey (OBJ 109) and Southend-on-Sea Unitary Authority (OBJ 140) suggested operational and technological alternatives to closure (IR 5.25.24, 5.25.27), but also notes the Inspector's assertion that these were not matters before the inquiry (IR 5.25.43).

178. The Secretary of State notes the Inspector's conclusions that E32 is used regularly for utilitarian purposes (IR 5.25.42), and the proposed alternative route is neither suitable nor convenient for users of E32 (IR 5.25.52). The Secretary of State further notes that the crossing forms a key route for users of the amenities in the area, particularly children accessing schools and that although the diversion would be step free, it would add 1.3km to a journey (IR 5.25.46, 5.25.49). The Secretary of State notes that the shortest diversion, corresponding to footpath 192, contains steps which limit its utility (IR 5.25.50), while E32 is not similarly restrictive (IR 5.25.47). The Secretary of State also notes the Inspector's conclusion, following the DIA (IR 5.25.44), that the proposed alternatives' additional length and steps would disproportionately impact current users of E32 who share a protected characteristic (IR 5.25.48), particularly schoolchildren (IR 5.25.49). In this context, the Secretary of State notes the Inspector's view that the proposed alternative's length is likely to limit its use by some groups who use E32 (IR 5.25.50), and as these groups include those with mobility impairments and the young, there is a likelihood that the PSED would not be met were E32 included in the Order (IR 5.25.51). The Secretary of State notes that, in reaching this conclusion, the Inspector has considered potential safety improvements for users were E32 to close (IR 5.25.51).

179. The Secretary of State notes the tragic fatalities and near misses and misuse reported at this crossing (IR 5.25.3). Noting that the crossing has a history of safety incidents, the Secretary of State agrees with the Inspector that there would be safety improvements for users not traversing the railway on the level (IR 5.25.51), but that, taking account of the above matters, this proposal should **not** be included in the Order as the proposed alternative would not be suitable or convenient (IR 5.25.52).

E33 Motorbike

180. The Secretary of State notes that E33 Motorbike carries public footpath EX/279/136 over the railway. The Order would confer powers to close the crossing, extinguish an adjacent length of footpath EX/279/136 (IR 5.26.5), and construct a new boardwalk and footpath south of the railway. Users would be diverted over this path, the

footway and level crossing on Pitsea Hall Lane, and the existing footpath network. This would require users to cross Pitsea Hall Lane twice (IR 5.26.6).

181. The Secretary of State notes the objections of Cromwell Manor Functions (OBJ 129) that the proposed boardwalk footpath and associated fencing would have a detrimental effect upon Cromwell Manor's views (IR 5.26.32) and use for clay pigeon shooting (IR 5.26.33), and that the site compound would impact its car park (IR 5.26.35), and that these would cause substantial effects on the business operated there (IR 5.26.36). The Secretary of State further notes the Inspector's conclusion that effects of the temporary use of the car park could be addressed by compensation but that the creation of the footpath would likely have significant impacts on the business which may not be possible to mitigate with compensation (IR 5.26.47).

182. The Secretary of State notes the Inspector's conclusion that the construction of the proposed fencing and boardwalk would have minor impacts on the immediate landscape (IR 5.26.52), and the proposal would be unlikely to impact flood risk (IR 5.26.50) or the Vange and Fobbing Marshes SSSI (IR 5.26.51).

183. The Secretary of State further notes objectors' concerns about the length and indirectness of the proposed alternative and its resultant impact on those with reduced mobility (IR 5.26.22-26). The Inspector concludes that the journey undertaken to access the south of the railway would be circuitous and lengthy (IR 5.26.57). For anyone approaching the crossing from the northwest and seeking to travel south, the proposed alternative would be inconvenient (IR 5.26.57).

184. The Secretary of State notes the Inspector's conclusion that users of the southern crossing of Pitsea Hall Lane travelling west to east would have limited sight of approaching traffic due to the blind bend (IR 5.26.28, 5.26.59), and that, as this stretch of road is frequented by speeding heavy goods vehicles (NR-16), this presents a significant risk to users (IR 5.26.60). The Secretary of State further notes the Inspector's conclusion that this renders the proposed alternative unsuitable (IR 5.26.59), and that this is unlikely to be overcome by detailed design as it would require works outside the scheme boundary (IR 5.26.60).

185. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, and weighing the impact upon those likely to use the crossing in the balance against matters in favour of the crossing closure, this proposal should **not** be included in the Order as the proposed alternative route would not be suitable, convenient or safe (IR 5.26.62-63).

E35 Cranes No. 1

186. The Secretary of State notes that E35 Cranes No. 1 carries public footpath EX/74/14 over the railway (IR 5.27.2). The Order would confer powers to close the crossing, extinguish the footpath over it, and create a new public footpath through the adjacent underpass used by The Notleys golf club. Users would be diverted via this path (IR 5.27.6, 5.27.7, 5.27.18).

187. The Secretary of State notes the Inspector's conclusion that public use of the underpass may have an impact on the golf club, but since the golf club made no

representations about the proposal, the Inspector concluded this is not considered to be of concern (IR 5.27.18).

188. The Secretary of State further notes the Inspector's conclusion that, although the creation of the path would require some vegetation removal, there is no indication of the vegetation including species of environmental concern and therefore the path's creation would have little or no appreciable impact upon the landscape (IR 5.27.25), and that, since the alternative uses the same field as the current path, there would be no adverse impact on agricultural land (IR 5.27.24).

189. The Secretary of State notes the objections to this crossing closure (IR 5.27.12-5.27.15), including concerns about waterlogging in the underpass (IR 5.27.12, 5.27.19). The Inspector considered that these issues could be considered during detailed design as water could be channelled into nearby drainage ditches (IR 5.27.27). The Secretary of State also notes the possibility of conflicts between footpath users and golfers waiting to use the narrow underpass, but notes the Inspector's conclusion that, given the underpass's short length, the waiting times would not be a significant hindrance (IR 5.27.28). The Secretary of State further notes concerns regarding the restricted headroom at one end of the underpass and the Inspector's conclusion that this would not be so significant as to dissuade users (IR 5.27.29), and that the short additional distance would cause no disproportionality when considered alongside E35's location and physical condition (IR 5.27.30).

190. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.27.31).

E36 Cranes No. 2

191. The Secretary of State notes that E36 Cranes No. 2 carries public footpath EX/120/8 over the railway (IR 5.28.1). The Order would confer powers to close the crossing and to extinguish adjacent lengths of footpaths EX/120/8 and EX/74/11 (IR 5.28.4). Users would be diverted via the local footpath network, passing through an underbridge to the south (IR 5.28.5).

192. The Secretary of State notes the Inspector's conclusion that the extinguishment of footpaths would remove a burden on the landowners across whose land they run (IR 5.28.14), and that, given the diversion is already a PROW, it is unlikely there would be any negative impacts on agriculture (IR 5.28.18).

193. The Secretary of State notes the objections to this proposal (IR 5.28.10-5.28.13). Regarding the concerns about journey length, the Inspector considered that, given the length of journeys users will likely be making, the alternative's increased length would not be unreasonable (IR 5.28.22). The Secretary of State also notes the Inspector's conclusion that, though the alternative route is longer, it would be more accessible than the current crossing (IR 5.28.23). The Inspector considered that E36's inclusion in the Order would not appear to lead to a likelihood of not meeting the PSED (IR 5.28.25). The Secretary of State further notes objections that the paths to be extinguished offer attractive views and woodland scenery (IR 5.28.11, 5.28.13), but that the Inspector

concluded that there would be no loss of amenity as the proposed alternative provides similar views (IR 5.28.24).

194. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.28.26).

E37 Essex Way

195. The Secretary of State notes that E37 Essex Way carries public footpath EX/120/13 over the railway (IR 5.29.1). The Order would confer powers to close the crossing, extinguish an adjacent length of footpath EX/120/13 (IR 5.29.4), and create new public footpaths passing through an underbridge to the south-east. Users would be diverted via these paths (IR 5.29.5).

196. The Secretary of State notes Mr Philpot's (OBJ-053) objection that the cross-field path would disrupt farming (IR 5.29.19), but notes the Inspector's conclusion that this would be partly offset by the extinguishment of the cross-field route to E37's north (IR 5.29.31). The Secretary of State notes OBJ-053's further concern that another part of the proposed alternative would require fencing, imposing a renewal cost upon him (IR 5.29.21); the Inspector considers that this could be dealt with through detailed design and compensation (IR 5.29.33). OBJ-053 proposed a minor amendment to the line of the path to address his concerns (IR 5.29.32).

197. The Secretary of State further notes concerns were also raised (IR 5.29.21, 5.29.25) that the alternative would be liable to flooding and waterlogging; the Inspector states that part of the proposal would lie in the floodplain of the watercourse next to it (IR 5.29.35) and considers the substitution of a path on elevated ground with one adjacent to a river and within its floodplain may introduce restrictions on its use which are not present on the current path (IR 5.29.43).

198. The Secretary of State notes the Inspector's view that the proposed alternative is likely to require some steps (IR 5.29.42), which was accepted by NR in cross-examination (IR 5.29.41), and that this may be inconvenient for some users (IR 5.29.42). The Secretary of State further notes the Inspector's conclusion that, as the potential impact of steps was not considered in the DIA, there is a likelihood the PSED would not be met if E37 were recommended for closure, which adds weight to the recommendation not to close the crossing (IR 5.29.45). Based on the information provided, the Secretary of State considers it unlikely the PSED would be met.

199. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should **not** be included in the Order as the proposed alternative route would be not suitable or convenient (IR 5.29.46).

E38 Battlesbridge

200. The Secretary of State notes that E38 Battlesbridge carries public footpath EX/229/23 over the railway (IR 5.30.1). The Order would confer powers to close the crossing and to extinguish an adjacent length of this footpath (IR 5.30.5). The Order would also confer powers to construct two new sections of footpath linking with steps to

either side of the A1245 bridge. Users would be diverted via these footpaths and bridge (IR 5.30.6-7).

201. The Secretary of State notes the Inspector's conclusion, following CJ and JN Clark's (OBJ-206) concerns (IR 5.30.48), that there would be some negative impact on those with interests in land over which the new footpath would run (IR 5.30.51), but that these could be addressed through detailed design and compensation (IR 5.30.53). The Inspector also concludes that, given that the landscape is compromised by main roads and overbridges, the construction of steps on the embankments of the A1245 is unlikely to have a significant negative impact on the landscape (IR 5.30.57).

202. The Secretary of State notes objectors' concern regarding users' exposure to noise and fumes on the bridge (IR 5.30.49), but notes the Inspector's conclusion that this is likely to be limited by the short length of the bridge and the distance from the carriageway (IR 5.30.59).

203. The Inspector noted that the principal use of the crossing was for leisure purposes and that the alternative's increased length is unlikely to represent a significant inconvenience (IR 5.30.61). The Inspector however considered that no evidence was provided to show the vehicle restraint system ("VRS") on the approaches to the bridge could be modified as proposed by NR to accommodate the new footpaths in a way that would comply with the Design Manual for Roads and Bridges standards (IR 5.30.64). The Secretary of State also notes that the crossing could not be closed until the alternative could be certified as of appropriate standard by Essex County Council in its capacity as local highway authority (IR 5.30.65). The Secretary of State further notes the Inspector's view that, after crossing the VRS, safety concerns arise from pedestrians having no protection from vehicles leaving the carriageway (IR 5.30.66-67). The Inspector considers that this would expose users to a greater risk than they currently face by using E38, and this means the alternative route is not suitable (IR 5.30.68, 5.30.71).

204. The Secretary of State further notes the Inspector's view that, whilst the VRS issue might be dealt with through detailed design, there is a significant issue with the number of steps associated with the alternative (IR 5.30.72). As users of E38 must contend with 22 steps on the current route, the Inspector considers that 120 steps on the proposed alternative would be highly inconvenient (IR 5.30.70). The Secretary of State also notes the Inspector's conclusion that, as this quantity of steps is likely to limit the accessibility of the proposed alternative to some users of E38 (IR 5.30.73), there is a likelihood that the PSED would not be met if E38 is recommended for closure (IR 5.30.70). The Secretary of State further notes the Inspector's consideration, in coming to his conclusion, of the reduced risks of an accident from the crossing itself should E38 be closed (IR 5.30.73).

205. The Secretary of State agrees with the Inspector's conclusions that, taking account of the above matters and weighing them in the balance against matters in favour of the crossing closure, this proposal should **not** be included in the Order as the proposed alternative route would not be suitable or convenient (IR 5.30.74).

E41 Paget

206. The Secretary of State notes that E41 Paget carries a pedestrian link across the railway between two disconnected parts of Paget Road (IR 5.31.1). The Order would

confer powers to close the crossing and extinguish any existing PROW over it (IR 5.31.6). The Order would also confer powers to construct a footpath including a footbridge, widen a section of footway on the High Street overbridge, and create PROWs over two private roads. Users would be diverted over two routes: an eastern route via the local road network and the Anglesea Road overbridge, and a western route via the local road network and the aforementioned footpath, private roads, and High Street overbridge (IR 5.31.7-10).

207. The Secretary of State notes the large number of objections relating to the proposal to close this crossing (IR 5.31.34-179). The Secretary of State further notes that the objection from Mr Button (OBJ-106) is discussed in the IR, though he withdrew his objection on 12 October 2017. The Secretary of State has therefore not considered this objection further.

208. The Secretary of State notes the Inspector's conclusion, following objectors' concerns, that the proposed works may cause some disruption, but that the detail of these works and any mitigation needed (bar alteration of the footway width on the High Street bridge, discussed below) could be included at the detailed design stage (IR 5.31.180-182), and that E41's closure would not prevent RMG access (IR 5.31.183).

209. The Secretary of State notes the Inspector's consideration of NR's argument that closing E41 would have direct operational benefits due to the resulting removal of the temporary speed restriction (IR 5.31.184), but notes the objectors' contentions that NR's basis for calculating sighting distances are incorrect (IR 5.31.185). The Inspector concludes that there is some merit to the objectors' arguments, that recognition of an increased sighting distance on the up line may not require whistle board mitigation, and this would have consequent effects on line speed on the down line (IR 5.31.191). The Inspector states, however, that NR's procedures are not a matter for the inquiry and he is unable to affect any change to those procedures (IR 5.31.188-192). The Secretary of State agrees.

210. The Secretary of State notes the Inspector's conclusion that there would be little impact on the landscape from fencing and vegetation removal (IR 5.31.195).

211. The Secretary of State notes the Inspector's conclusion that the proposed alternative routes would be unsuitable and inconvenient for users of E41 (IR 5.31.214). The Inspector considered that the eastern alternative has a severe gradient (IR 5.31.211), and that NR's proposed mitigation for this would be welcome but inadequate to deal with these issues (IR 5.31.203). The Secretary of State also notes the Inspector's view that, given the utilitarian nature of journeys over E41 (IR 5.31.181, 5.31.199), the increase in journey distances would be highly inconvenient (IR 5.31.210) and may disproportionately affect disabled users (IR 5.31.202).

212. The Secretary of State notes the Inspector's view that the lack of footways and uneven surface on the eastern alternative would not improve access for some groups, and may result in injuries and collisions with vehicles (IR 5.31.204). The Secretary of State further notes the Inspector's concerns over accidents with vehicles caused by the lack of footways on Alma Street, Hamilton Road and Phillip Road on the western alternative (IR 5.31.205, 5.31.206), and that this would reduce the safety benefits which older users may derive from E41's closure as pedestrians would need to walk in the

carriageway (IR 5.31.202). The Secretary of State also notes the Inspector's view that the proposed works on the High Street overbridge, i.e. widening footways and narrowing the carriageway, will not address existing shortcomings (IR 5.31.211), in particular the narrow footway on the south-east side of the bridge whose width is limited by the need for buses to turn (IR 5.31.207), thereby forcing users to step into the carriageway (IR 5.31.208). The Secretary of State notes the Inspector's concern that the need to avoid these issues would thus force users to cross the High Street twice (IR 5.31.209).

213. The Secretary of State notes the Inspector's conclusion that, given the steep gradients, uneven surfaces, and potential for contact with buses (IR 5.31.212), access would be reduced for the elderly and users with mobility impairments who can currently use E41, and that including E41 in the Order would raise the likelihood of the PSED not being met (5.31.213).

214. The Secretary of State agrees with the Inspector's conclusions that there are potential operational benefits of E41's closure (IR 5.31.214) but agrees that, taking account of the above matters, this proposal should **not** be included in the Order as the proposed alternative would not be suitable or convenient (IR 5.31.216). The Secretary of State also notes the Inspector's consideration of the matters relating to consultation (IR 5.31.215) and this is an area that NR should consider further with regard to any future applications.

E43 High Elm

215. The Secretary of State notes that E43 High Elm carries public footpath EX/157/4 over the railway (IR 5.32.1). The Order would confer powers to close the crossing, extinguish an adjacent part of footpath EX/157/4 (IR 5.32.5), and provide two new crossing points on St Osyth Road. Users would be diverted via footpath EX/157/5 and the footway on St Osyth Road, including the new crossings (IR 5.32.6).

216. The Secretary of State notes the Inspector's conclusion that the owner of the land over which footpath EX/157/4 is to be extinguished is likely to benefit from E43's closure (IR 5.32.31). The Secretary of State further notes Mrs Murton's (OBJ-099) concern around the removal of vegetation between her land and the railway boundary (IR 5.32.22), but notes the Inspector's conclusion that this could be addressed through detailed design, vegetation management or compensation (IR 5.32.31).

217. The Secretary of State notes the Inspector's view that the proposed alternative's additional length may not be significantly inconvenient for recreational users (IR 5.32.41), but that it would subject users to greatly increased noise and traffic fumes (IR 5.32.38, 5.32.43). The Secretary of State also notes objectors' concerns about loss of amenity (IR 5.32.20, 5.32.23, 5.32.30), and the Inspector's view that the proposed alternative would prevent the undertaking of short circular walks, which would be significantly inconvenient to users as it would mean that the alternative would not serve the same purpose as the route via E43 (IR 5.32.42), and this would not be mitigated by installing crossing points on the B1027 (IR 5.32.44). The Inspector notes that, while the alternative route may be more accessible than using E43 in that it would not be subject to steps and stiles, this would not offset its unsuitability or inconvenience (IR 5.32.45). The Inspector therefore concludes that whilst closure of the crossing may bring benefits to NR, those benefits are insufficient

to outweigh the inconvenience which would arise to those members of the public who currently use E43 if it were to be closed (IR 5.32.46).

218. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should **not** be included in the Order as the proposed alternative would not be suitable or convenient (IR 5.32.47).

E45 Great Bentley Station and E46 Lords No. 1

219. The Secretary of State notes that E45 Great Bentley Station carries public footpath EX/165/8 over the railway (IR 5.33.1). The Order would confer powers to close the crossing and extinguish an adjacent length of footpath EX/165/8 (IR 5.33.7).

220. The Secretary of State notes that E46 Lords No. 1 is located 300m east of Great Bentley Station and carries public footpath EX/165/12 over the railway (IR 5.33.4). The Order would confer powers to close the crossing and extinguish the whole of footpath EX/165/12 (IR 5.33.7).

221. The Order would also confer powers to construct a new footpath connecting the severed end of footpath EX/165/8 with Plough Road. Users of both crossings would be diverted via the new footpath, the existing local footpath and bridleway network, footways and verges on the local road network, and Plough Road level crossing (IR 5.33.8-9).

222. The Secretary of State notes the Inspector's view that the creation of a new footpath would likely be detrimental to the owners of the land over which it would run, especially the owners of the relevant parts of Plough Road business park (IR 5.33.36), but that any adverse impacts could be addressed by detailed design or compensation (IR 5.33.40). The Secretary of State also notes the Inspector's view that the extinguishment of two lengths of footpath would have a positive impact on the owners of the land over which they run (IR 5.33.36), and on the owners and occupiers of adjacent properties (IR 5.33.37). The Secretary of State further notes the Inspector's view that the discharge of planning conditions caused by E45's closure would benefit the developer of the land to which these planning conditions apply (IR 5.33.38); the new footpath would have no adverse impact on agriculture if the proposed development were constructed (IR 5.33.45).

223. The Secretary of State notes that the closure of E45 would have specific beneficial impacts on the railway, by facilitating the introduction of ten-car trains to the line without those trains 'sitting back' over the crossing when calling at Great Bentley (IR 5.33.41).

224. The Secretary of State notes the Inspector's comments on the Ramblers' (OBJ-148) objection that the proposed alternative would limit the village green's use as a setting-off point for organised walks (IR 5.33.48), but that he concluded that the proposed alternative would not restrict such usage (IR 5.33.49). The Secretary of State further notes the Inspector's view that the additional length on the various routes would be unlikely to cause inconvenience (IR 5.33.50). The Secretary of State also notes the Inspector's view that the proposed alternative is relatively safe, especially as the footbridge at Plough Lane crossing provides an alternative route to E45 which is segregated from vehicular traffic (IR 5.33.51). The Secretary of State further notes the Inspector's view that the proposed alternative would not diminish the quality of walks (IR 5.33.52). Finally, the Secretary of State notes the Inspector's conclusion that the

proposed alternative would be more accessible than the current crossings and so E45 and E46's inclusion in the Order would not lead to a likelihood of not meeting the PSED (IR 5.33.55).

225. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, these proposals should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.33.56).

E47 Bluehouse

226. The Secretary of State notes that E47 Bluehouse carries public footpath EX/164/16 over the railway (IR 5.34.1). The Order would confer powers to close the crossing, extinguish an adjacent part of footpath EX/164/16 (IR 5.34.4), and construct a new footpath to link to the nearby Pork Lane level crossing. Users would be diverted via this footpath, Pork Lane crossing and Pork Lane itself (IR 5.34.5).

227. The Secretary of State notes the Inspector's conclusion that the extinguishment of part of footpath EX/164/16 would remove the burden on the land over which it runs (IR 5.34.18). The Secretary of State notes Mr and Mrs Roberts' (OBJ-101) concern (IR 5.34.14) that the creation of the new path would have an adverse impact on the land over which it would run, particularly because of risks with disease transfer to livestock in the field (IR 5.34.19). The Secretary of State further notes NR's proposal for stock-proof fencing and the Inspector's conclusion that such matters can be dealt with under the detailed design and that the adverse impact on the landowner can be addressed through compensation (IR 5.34.20).

228. The Secretary of State notes that the Inspector considered that the increase in journey times was unlikely to inconvenience recreational users (IR 5.34.32). The Secretary of State further notes the Inspector's view that Pork Lane crossing is safer and more accessible than E47 (IR 5.34.33), and that the use of verges on Pork Lane is similar to the situation with which users of E47 must currently contend (IR 5.34.31). The Secretary of State further notes that the proposed alternative would maintain local links and that its added distance would not be inconvenient for users (IR 5.34.32), nor would the inclusion of this crossing in the Order lead to a likelihood that PSED would not be met (IR 5.34.34).

229. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.34.35).

E48 Wheatsheaf

230. The Secretary of State notes that E48 Wheatsheaf carries public footpath EX/184/19 over the railway (IR 5.35.1). The Order would confer powers to close the crossing, extinguish an adjacent part of footpath EX/184/19 (IR 5.35.5), and construct a new footpath. Users would be diverted via this footpath, the verges of the local road network and Church Road overbridge (IR 5.35.7-8).

231. The Secretary of State notes the Inspector's conclusions that the proposals would have no impact on the Suffolk Coast and Heaths Area of Outstanding Natural Beauty and

Wrabness Local Nature Reserve (IR 5.35.53), and that no evidence was presented to suggest an adverse impact on the landscape in general (IR 5.35.54); and the Inspector considers that the culverting of a roadside ditch is unlikely to impede water flow (IR 5.35.52).

232. The Secretary of State notes Mr and Mrs Hutley's objection (OBJ-085) that the new footpath over their land could have detrimental impacts, particularly due to fly-tipping, unauthorised access, and conflicts between pedestrians and equestrians who use the field as a gallop (IR 5.35.29, 5.35.30, 5.35.47), and notes Ms Kincaid's (OBJ-184) objection as an equestrian user. The Secretary of State further notes the change on Replacement Sheet 40 (NR-157) which moves this footpath closer to the railway boundary to lessen these impacts (IR 5.35.6), and NR's submission that mitigation measures could be considered to manage any adverse impact the footpath may have upon these permissive uses and to prevent unauthorised access (IR 5.35.48). The Secretary of State notes the Inspector's conclusion that, though this footpath's creation would affect the landowner's agricultural activity and use (IR 5.35.55), equestrian and pedestrian uses can coexist. The Secretary of State also notes the Inspector's conclusions that discussions on mitigation works can be entered into during the detailed design stage (IR 5.35.48) and that impacts could be dealt with by mitigation and compensation (IR 5.35.50). The Secretary of State further considers that issues including Andy and Gill Moffatt's (OBJ-125) concerns on the security of properties bordering the path and access to Mr Cole's (OBJ-158) soakaway (IR 5.35.21-22) could be similarly resolved.

233. The Secretary of State further notes the Inspector's view that the proposed alternative would make some users' journeys shorter (IR 5.35.59), and that for those journeys that would be made longer, the additional length would not be inconvenient (IR 5.35.59-60). The Secretary of State further notes the Inspector's view that the use of Dimbolls Hall Lane is unlikely to be unsuitable due to its current use and light traffic, although verges may need to be reprofiled subject to detailed design (IR 5.35.49, 5.35.61). The Secretary of State considers this could resolve Essex County Council's (OBJ-195) concern regarding verge banks being too high (IR 5.35.40). The Secretary of State further notes the Inspector's view that the proposed alternative is likely more accessible than E48 given its lack of steps and gates, and that inclusion of E48 in the Order would not appear to lead to a likelihood that the PSED would not be met (IR 5.35.64). The Secretary of State also notes the Inspector's view that the narrow footway and verge on Church Lane would not inconvenience current users (IR 5.35.63), and that the proposed route would maintain the availability of circular walks (IR 5.35.62).

234. The Secretary of State notes the Inspector's conclusion that it would not be necessary to extinguish the whole proposed length of footpath EX/184/19 to enact the closure, and that by not extinguishing this length of path, public access to Brakey Grove ancient woodland could be maintained (IR 5.35.67) without an adverse impact on the woodland (IR 5.35.53, 5.35.55), thereby addressing objectors' concerns (IR 5.35.37, 5.35.42). The Secretary of State agrees with this conclusion, which is included in the final Order.

235. The Secretary of State notes Mr and Mrs Hutley's claim that the time between being served notice and the objection deadline was inadequate. The Secretary of State further notes the Inspector's conclusion that, as the inquiry's adjournment allowed Mr and

Mrs Hutley adequate time to prepare, their interests were not prejudiced by this short timeframe (IR 5.35.65).

236. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order with the modifications shown on Replacement Sheet 40 (NR-157) and those proposed by the Inspector in IR 5.35.68, as the proposed alternative would be suitable and convenient (IR 5.35.66).

E49 Maria Street

237. The Secretary of State notes that E49 Maria Street carries a pedestrian link across the railway between Maria Street to the west and Ferndale Road to the east (IR 5.36.1). The Inspector also notes that the link is also used by cyclists (IR 5.36.5). The Order would confer powers to close the crossing and extinguish the PROW over it. Users would be diverted to the south via the local road network, using Alexandra Road crossing (IR 5.36.6).

238. The Secretary of State notes RMG's (OBJ-156) objection to this proposal on the grounds that its operations are sensitive to disruption to the highway network which can affect its ability to meet its statutory obligations (IR 5.36.14). The Secretary of State further notes the Inspector's view that there are no vehicle rights over E49 and that its closure would have no impact on RMG's vehicular use of adjacent streets (IR 5.36.17), and the Inspector's view that, if RMG currently parks vehicles on the areas proposed for temporary possession by NR, they could park elsewhere nearby for the duration for which NR were in temporary possession (IR 5.36.18).

239. The Secretary of State notes the Inspector's conclusion that the proposed alternative route would be suitable and convenient for users of E49 (IR 5.36.30). The Secretary of State further notes the Inspector's view that the additional length of journeys would depend on their point of origin and ultimate destination, but would be an additional length of 450 metres if current users were simply to go from one side of E49 to the other (IR 5.36.26).

240. The Secretary of State notes that E49 is ramped and fully accessible (NR-120). The Secretary of State notes the Inspector's view as initially stated in the IR that the proposed alternative route is fully accessible (IR 5.36.29) as it has dropped kerbs at road junctions which would accommodate existing users (IR 5.36.25). The Secretary of State further notes the Inspector's conclusion that E49's inclusion in the Order would therefore not lead to a likelihood of the PSED not being met (IR 5.36.28).

241. The Secretary of State has however reviewed the photograph of the proposed alternative in the DIA (NR-120) and there are no dropped kerbs visible. Noting the very high frequency of use of E49 by users with protected characteristics (IR 5.36.5, 5.36.28), the Secretary of State consulted NR on this point via a letter dated 22 September 2020. NR responded in its letter of 6 October 2020 that the footways on the approaches to Alexandra Road crossing do not in fact have dropped kerbs, so users requiring step-free access would be required to share the level crossing and its approaches with vehicles until they can rejoin the footway. NR further elaborated that access to Alexandra Road is prohibited for large vehicles, and that it does not believe that the expenditure required to install dropped kerbs is justifiable.

242. The Secretary of State wished to seek clarification on the presence of dropped kerbs, and raised this matter with the Planning Inspectorate who in turn asked the Inspector to produce an addendum to the IR. This addendum describes E49 and its proposed alternative and the differences between them. It adds to the IR by noting that the western end of E49 provides access directly onto the roadway of Maria Street, so users of E49 requiring step-free access must currently use the carriageway as the kerbs on Maria Street are raised (addendum, paragraph 9). It also notes that, while the eastern approach to E49 is accessible from both sides of the adjoining road, the eastern approach to the alternative is only accessible from the southern side of the road, and that this would therefore require users of E49 (which lies to the north of the alternative) to cross the road via dropped kerbs at road junctions (addendum, paragraph 11). The addendum acknowledged that the IR was erroneous in describing the proposed alternative as 'fully accessible', but concluded that the alternative is no less accessible than E49 as users must negotiate raised kerbs on both E49 and the proposed alternative (addendum, paragraph 12).

243. Taking NR's response and the addendum to the IR into account, the Secretary of State notes that while both E49 and the proposed alternative mean users requiring step-free access must use the carriageway to some degree, the proposed alternative would force those that require step-free access to repeatedly cross the carriageway where they do not currently do so, and then use the carriageway on Alexandra Street alongside through traffic where they must currently only use the carriageway on the Maria Street cul-de-sac. This potentially presents safety concerns greater than those present on E49, and consultation for the DIA highlighted concerns around safety in relation to the diversion (NR-120, p. 136). Though the Secretary of State notes the Inspector's statement that there is no evidence of accidents occurring between pedestrians and vehicles at Alexandra Road crossing, the Secretary of State has no evidence that the character of the proposed alternative would be safe specifically for existing users of E49, which as noted comprise a wide range of users with mobility needs (IR 5.36.11).

244. The Secretary of State notes the Inspector's recommendation that if the Secretary of State considers the PSED would not be met, then he should omit E49 from the Order (addendum, paragraph 15). The Secretary of State notes the potential risk the proposed alternative would involve, in particular for those with mobility needs. The Secretary of State concludes that the alternative would therefore not be suitable or convenient and is not satisfied that the PSED would be met if E49 was included in the Order.

245. The Secretary of State notes there were no objections regarding the safety, design, maintenance or accessibility of the proposed alternative (IR 5.36.26), beyond the general objection raised by Mr Atkins (OBJ/176) in relation to a number of level crossings in the Order. However, taking account of the above matters, the Secretary of State considers that E49 should **not** be included in the Order.

E51 Thornfield Wood and E52 Golden Square

246. The Secretary of State notes that E51 Thornfield Wood carries public footpath EX/152/11 over the railway (IR 5.37.2). The Order would confer powers to close the crossing (IR 5.37.6) and extinguish an adjacent length of footpath EX/152/11. The Order would also confer powers to create new lengths of footpath on the east and west sides of

E51, linking Jankes Green Road. Users would be diverted over these footpaths and the overbridge at Jankes Green Road (IR 5.37.7).

247. The Secretary of State further notes that E52 Golden Square carries public footpath EX/146/21 over the railway (IR 5.37.4). The Order would confer powers to close the crossing (IR 5.37.6) and extinguish the whole of footpaths EX/146/21 and EX/152/7, which extends west of E52. The Order would also confer powers to create three new lengths of footpath on the west side of E52: one to Jankes Green Road bridge to the south, one to Robert's Hill bridge to the north, and a new field-edge footpath to replace a cross-field footpath EX/152/7. Users would be diverted either southwards over the new footpath, Jankes Green Road overbridge and the local road network; or north over the new footpath, footpath EX/146/12 and the local road network. Users of footpath EX/152/7 would be diverted onto the replacement field-edge path (IR 5.37.10).

248. The Secretary of State notes that whilst there were a number of objections, none were from landowners affected by the proposals (IR 5.37.60). The Inspector concluded that the creation of the proposed PROWs would cause an adverse impact on the land over which they would run (IR 5.37.60), but that this would be mitigated by the paths running as field-edge paths and not cross-field (IR 5.37.61, 5.37.68) and the realignment of footpath EX/152/7 (IR 5.37.61). The Secretary of State further notes that adverse impacts could be addressed by detailed design and compensation (IR 5.37.63).

249. The Secretary of State notes the Inspector's conclusion that any works necessary would be unlikely to affect flood risk (IR 5.37.65), and that the proposed alternatives are unlikely to adversely impact Chalkney Wood or Arger Fen SSSIs (IR 5.37.66). The Secretary of State further notes that vegetation management at the junction between the diverted footpath EX/152/7 and Jupe's Hill is unlikely to have a significant landscape impact (IR 5.37.68).

250. The Secretary of State notes the dispute between NR and Colchester Borough Council over whether the hedgerows to the south of Jankes Green Road and west of the railway were 'important hedgerows' under the Hedgerows Regulations 1997 (IR 5.37.24-25, 5.37.42), noting that a hedge would be breached to create E51's diversion (IR 5.37.69). The Secretary of State notes the Inspector's conclusion that the Hedgerows Regulations allow removal irrespective of its importance where planning permission is granted, and that the adverse effect of this breach will be highly localised and is unlikely to be of significance in the wider landscape (IR 5.37.70).

251. The Secretary of State further notes the Inspector's view that the alternatives' additional lengths, 1.1km for E51 and 1.8km for E52, would be inconveniently long for users of these crossings (IR 5.37.76), and that they would be inconveniently circuitous as they would replace the current east-west routes with north-south ones (IR 5.37.77). The Inspector also notes the Ramblers' (OBJ-148) contention that the closure of E52 would lengthen journeys to Sergeants Orchard nature reserve (IR 5.37.67). The Secretary of State further notes the Inspector's conclusion that while the proposed alternatives would bring accessibility benefits of avoiding the stiles, steps and slopes at E51 and E52, those who find the existing routes difficult to negotiate would have to contend with the proposed alternative's limitations in terms of length, circuitousness, safety and likely need for path furniture (IR 5.37.82).

252. The Secretary of State notes objectors' concerns that road walking on the alternative routes would be unsafe, especially when compared with using E51 and E52 (IR 5.37.27, 5.37.32, 5.37.35, 5.37.38, 5.37.45-48, 5.37.55-58). The Secretary of State notes that it is acknowledged that E51 and E52 are low risk crossings (IR 5.37.81). The Secretary of State further notes the Inspector's view that the use of Jankes Green Road specifically as part of the proposed alternatives would be unsafe compared to E51 and E52, and thus unsuitable for current users of the crossings (IR 5.37.81), due to limited visibility west of the bridge (IR 5.37.78) and a lack of verges east of the bridge (IR 5.37.79) exposing users to additional risk (IR 5.37.80). The Inspector considers that only some of these issues may be able to be addressed by detailed design or appropriate mitigation (IR 5.37.62).

253. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E51 and E52 should **not** be included in the Order as the proposed alternatives would not be suitable and convenient (IR 5.37.84).

E54 Bures

254. The Secretary of State notes that E54 Bures carries public footpath EX/70/30 over the railway (IR 5.38.1). The Order would confer powers to close the crossing, extinguish an adjacent length of footpath EX/70/30 (IR 5.38.4), and construct a new section of footway and a crossing point by the Station Hill underbridge. Users would be diverted via the footways on the local road network, including the Station Hill underbridge (IR 5.38.5).

255. The Secretary of State notes the Inspector's conclusion that the proposal is unlikely to have a detrimental effect on nearby landowners or businesses (IR 5.38.35), and that the owners and occupiers of properties abutting footpath EX/70/30 would experience less disturbance (IR 5.38.34). The Secretary of State further notes RMG's objections (IR 5.38.16-18), but notes the Inspector's comment that there are no private or public vehicle rights over E54 and closure would not impact upon RMG's existing vehicle use of adjacent streets. The Inspector concluded that there was no evidence E54's closure, or the construction of a footway on Station Hill, would adversely affect RMG's ability to deliver post (IR 5.38.36-37).

256. The Secretary of State notes the Inspector's conclusion that the proposals would be unlikely to adversely impact Argers Fen SSSI, Tiger Hill nature reserve, or Argers Fen nature reserve (IR 5.38.41), and that there would be no impact on the landscape beyond the erection and renewal of fencing (IR 5.38.43).

257. The Inspector states that E54 provides a utilitarian and recreational function (IR 5.38.45). The Secretary of State notes objectors' concerns around safety (IR 5.38.14, 5.38.20-21, 5.38.26-30) and the Inspector's view that the alternative route is not safe due to issues at the western side of the underbridge, where users crossing on the south-western side of the bridge would not know whether a vehicle was approaching without stepping into the carriageway (IR 5.38.51). The Secretary of State also notes the Inspector's consideration that, while E54 is not without risk to pedestrians, this risk is at the lower end. The Inspector considered that the proposed alternative is not suitable on safety grounds as the road crossing poses risks for which NR has proposed no mitigation (IR 5.38.53).

258. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E54 should **not** be included in the Order as the proposed alternative would not be suitable and convenient (IR 5.38.54).

E56 Abbotts

259. The Secretary of State notes that E56 Abbotts carries public footpath EX/158/27 over the railway (IR 5.39.1), and has been temporarily closed since around 2006 due to insufficient sighting (IR 5.39.3). The Order would confer powers to close the crossing and extinguish adjacent lengths of footpaths EX/158/27, EX/158/28 and EX/158/42 (IR 5.39.5). The Order would also confer powers to create new lengths of public footpath linking the severed ends of footpaths EX/158/27 and EX/157/28 to the Little Bromley Road overbridge and the local footpath network. Users would be diverted either via the aforementioned new paths and bridge (IR 5.39.7), or via footways on the local road network and footpath EX/158/49 (IR 5.39.6).

260. The Secretary of State notes the Inspector's view, addressing Mr Harris's (OBJ-103) objection (IR 5.39.18-19), that while some benefit would arise from the removal of part of EX/158/27, a greater burden would be imposed upon the owner of the field over which footpath EX/158/27 runs, as its diversion would be longer than the present path (IR 5.39.25). The Secretary of State also notes the Inspector's view that the replacement paths to the south-east of the railway may have land management implications (IR 5.39.26). The Secretary of State further notes the Inspector's conclusion that both these issues could be addressed by detailed design or compensation (IR 5.39.28).

261. The Secretary of State notes that the existing footpaths run over land designated as a Scheduled Ancient Monument and that one of the replacement footpaths will run over the same designated area (IR 5.39.32). The Inspector considered that this was unlikely to have an adverse impact upon the designated area and that protection for the site would be provided by a condition in the planning permission if the Order is made (IR 5.39.32).

262. The Secretary of State further notes the Inspector's consideration of the modest additional distances users would need to walk (IR 5.39.37), which are unlikely to be inconvenient (IR 5.39.38). The Secretary of State also notes the Inspector's view that the proposed alternative would retain users' ability to undertake the journeys allowed by the current paths (IR 5.39.38), and that the Little Bromley Road bridge is a safe way to cross the railway (IR 5.39.39). These were all matters raised by objectors. The Secretary of State notes the Inspector's conclusion that E56's inclusion in the Order would not appear to lead to a likelihood of the PSED not being met (IR 5.39.40).

263. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, E56 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.39.42).

H01 Trinity Lane

264. The Secretary of State notes that H01 Trinity Lane carries a public road over the railway (IR 5.40.1). The Order would confer powers to downgrade the public vehicle crossing by extinguishing public vehicular rights over the crossing and the section of

Trinity Lane to the east, and create a public bridleway over the crossing and this section of road (IR 5.40.6). NR intends to grant a licence to the owner of the allotments (Broxbourne Borough Council) whose invitees (the allotment holders) will be able to cross the railway under the crossing keeper's supervision (IR 5.40.10). Cyclists and pedestrians would be able to use the nearby stepped footbridge or use H01 under the crossing keeper's control (IR 5.40.7).

265. The Secretary of State notes the Inspector's conclusion that, as article 26(3) of the Order retains private vehicular access over H01, no landowners of land to the east of the railway, or their invitees, would experience adverse impacts (IR 5.40.18).

266. The Secretary of State notes the Inspector's conclusion that the proposals would be unlikely to adversely impact the neighbouring Lee Valley Ramsar site, Lee Valley Special Protection Area or Turnford and Cheshunt Pits SSSI (IR 5.40.22).

267. The Secretary of State notes the Inspector's conclusion that no alternative route is required (IR 5.40.29). The Secretary of State notes objections about the footbridge's inaccessibility (IR 5.40.13, 5.40.16, 5.40.17), but that the Inspector asserts that use of this bridge would be optional as the proposed bridleway will maintain current access for pedestrian users (IR 5.40.25, 5.40.26). The Inspector concluded that inclusion of H01 in the Order would not appear to lead to a likelihood that PSED would not be met (5.40.28).

268. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, H01 should be included in the Order as no alternative is required (IR 5.40.29).

H02 Cadmore Lane

269. The Secretary of State notes that H02 Cadmore Lane carries Cheshunt public footpath 9 over the railway (IR 5.41.1), and has been physically closed since 2014 when an adjacent fully accessible non-motorised user bridge was constructed (IR 5.41.3). The Order would confer powers to formally close the crossing, extinguish the PROW over it, and create a PROW over the bridge over which users would be diverted (IR 5.41.4). The Secretary of State further notes that both objections to this proposal were withdrawn before the inquiry opened (IR 5.41.8).

270. The Secretary of State notes the Inspector's conclusion that, as the bridge is extant, there would be no impact on the neighbouring Lee Valley Ramsar site or the Turnford and Cheshunt Pits SSSI (IR 5.41.13), nor would the proposal affect those with an interest in land (IR 5.41.9).

271. The Secretary of State notes the Inspector's conclusion that the footbridge is ramped with an accessible gradient (IR 5.41.16), and would therefore provide a suitable and convenient alternative for those who used H02 (IR 5.41.18) and that H02's inclusion in the Order would not lead to a likelihood that the PSED would not be met (IR 5.41.17).

272. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, H02 should be included in the Order as the existing bridge is a suitable and convenient alternative (IR 5.41.19).

H04 Tednambury

273. The Secretary of State notes that H04 Tednambury carries Sawbridgeworth public footpath 3 over the railway (IR 5.42.1). The Order would confer powers to close the crossing and extinguish an adjacent length of footpath 3 (IR 5.42.4). The Order would also confer powers to create two diversionary footpaths, and to establish a PROW over the bridge and a section of the private access road to Tednambury. Users would be diverted over these footpaths and bridge (IR 5.42.5).

274. The Inspector noted Mr Edmonston's (OBJ-128) contention that the proposed alternative would diminish the privacy and security enjoyed at his property (IR 5.42.20). The Secretary of State further notes that Mr Edmonston (OBJ-128) has proposed an alternative route ("Mr Edmonston's alternative") to mitigate this on Replacement Sheet 08 dated 7 September 2018 (OBJ-128-1), which other interested parties have not opposed (OBJ-128-2). The Secretary of State notes the Inspector's consideration of Mr Edmonston's alternative (IR 5.42.31-35) and agrees with the Inspector that this alternative route should be included in the Order (IR 5.42.37).

275. The Secretary of State notes the Inspector's conclusion that any disturbance or loss, and any adverse impacts on agriculture, could be addressed by detailed design, compensation, and Mr Edmonston's alternative (IR 5.42.21, 5.42.26).

276. The Secretary of State notes the Inspector's view that Mr Edmonston's alternative, in contrast to that proposed by NR, would not require the construction of a footbridge over a drain and would have no more interaction with flood risk areas than the current footpath (IR 5.42.23). The Secretary of State notes the Inspector's conclusion that this is a further advantage of Mr Edmonston's alternative (IR 5.42.34).

277. The Secretary of State notes the Inspector's conclusion that, though H04 lies 110m from Little Hallingbury Marsh SSSI, there is no evidence to suggest its closure would have any adverse effect on the SSSI (IR 5.42.25). The Secretary of State further notes the Inspector's view that, though the proposed fencing would somewhat urbanise the landscape, this impact could be reduced through detailed design and choice of materials (IR 5.42.27). The Secretary of State also notes the Inspector's view that H04's closure would address Oram Court Residents' (SUPP-06) concerns about train horn noise by removing the need for whistle boards (IR 5.42.28).

278. The Secretary of State notes the Inspector's conclusion that Mr Edmonston's alternative would be suitable and convenient for users of H04 (IR 5.42.34). The Secretary of State further notes the Inspector's view that the added length of 215 metres would neither inconvenience users (IR 5.42.29), nor, given H04's condition and location, would its inclusion in the Order appear to lead to a likelihood that the PSED would not be met (IR 5.42.35). The Secretary of State also notes the Inspector's view that, as Mr Edmonston's alternative would run over similar terrain and likely require stiles, accessibility would be little improved (IR 5.42.30), but that, as Mr Edmonston's alternative maintains east-west access and links to the PROW network, accessibility would also not be diminished (IR 5.42.32). The Inspector also considered that, though Mr Edmonston's alternative appears counter-intuitive compared to NR's, no concerns were raised on this (IR 5.42.33).

279. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, H04 should be included in the Order with the modifications shown on replacement sheet 08 dated 7 September 2018 (OBJ-128-2) as this alternative would be suitable and convenient (IR 5.42.36). The Secretary of State has modified the Order accordingly to reflect this.

H05 Pattens, H06 Gilston and H09 Fowlers

280. The Secretary of State notes that H05 Pattens carries Thorley public footpath 22 over the railway (IR 5.43.3). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 22 (IR 5.43.9).

281. The Secretary of State notes that H06 Gilston carries Thorley public footpath 7 over the railway (IR 5.43.5). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 7 (IR 5.43.12).

282. The Secretary of State notes that H09 Fowlers carries a private vehicular access over the railway (IR 5.43.7) used by Mr and Mrs Carpenter, the owners of land to the railway's east (IR 5.43.36). The Order would confer powers to close and remove all private rights over the crossing (IR 5.43.16).

283. The Order would also confer powers to create a number of new lengths of footpath converging on an existing underpass. Users of all three crossings would be diverted via this underpass (IR 5.43.10, 5.43.13), with private rights for smaller vehicles being created through it (IR 5.43.16). Users of H06 would also be diverted via Thorley public footpath 5 to the north (IR 5.43.14).

284. The Secretary of State notes the Inspector's conclusion that the land over which H05 and H06's proposed alternatives would run would be burdened more than at present (IR 5.43.52). The Secretary of State further notes objectors' concerns about the suitability of the bridge over Thorley Marsh Ditch, and path and bridge maintenance obligations (IR 5.43.33-34, 5.43.37), but notes the Inspector's conclusion that the condition of the path surface and bridge would need to satisfy the Highway Authority before the crossings' closure, and that any other impacts in this respect could be addressed through detailed design or compensation (IR 5.43.53).

285. The Secretary of State notes the Inspector's conclusion that, though the proposed alternative for users of H05 through Thorley Flood Pound SSSI would follow existing paths and tracks and the environmental impact assessment screening report concludes the proposals would have minimal impact on the SSSI, increased footfall is likely to disturb water vole (IR 5.43.57). The Secretary of State further notes Herts and Middlesex Wildlife Trust's ("HMWT") objection that H09's closure would disrupt their management of the SSSI (IR 5.43.31-32), but notes the Inspector's conclusion that, as HMWT do not have a private right of way over H09, they would have to make alternative access arrangements to manage the site if the crossing were closed (IR 5.43.58).

286. The Secretary of State notes that the Inspector's conclusion on the flood risk of the proposed alternative for H05, in light of the issue being raised by objectors (IR 5.43.30, 5.43.42-45), is that it would cross land no more prone to flooding than the current route (IR 5.43.56), nor would it contribute to flood risk (IR 5.43.55). The Secretary of State

notes the Inspector's view that, though the underpass diversion sits between flood zones 2 and 3, this would be no different from the current route of footpath 22 and users would thus already be aware of the potential for flooding on the route (IR 5.43.68).

287. The Secretary of State further notes the Inspector's view that H05's proposed alternative would be circuitous, lengthy and counter-intuitive (IR. 5.43.70). The Secretary of State notes Mr and Mrs Carpenter's (OBJ-162) objection that the closure of H09, and the inadequate headroom of the underpass diversion, would sever their landholdings (IR 5.43.36). The Inspector concludes that it is unclear whether the Carpenters would be able to continue managing their land to the railway's east were H09 to be closed, so the proposed alternative cannot be considered suitable and convenient (IR 5.43.51). The Secretary of State further notes the Inspector's view that the restricted headroom of the underpass, through which Mr and Mrs Carpenter would be granted a private vehicular right, would impede access (IR 5.43.50), and that, as no detail was provided as to what machinery Mr and Mrs Carpenter used, there was nothing to substantiate NR's claim that this machinery would fit through the underpass (IR 5.43.51).

288. The Secretary of State notes the Inspector's conclusion that, for the reasons outlined above, the proposals for H05 and H09 should not be included in the Order (IR 5.43.73). Henceforth, only those parts of the Inspector's conclusions pertaining to H06 will be discussed.

289. The Secretary of State notes the Inspector's conclusions on the suitability and convenience of the underpass for walkers, including that the increased length would be unlikely to inconvenience users of H06 (IR 5.43.63), and that, given the short length of the underpass, its restricted headroom would not be a significant inconvenience (IR 5.43.67), addressing objectors' concerns (IR 5.43.30, 5.43.47-49). The Secretary of State further notes the Inspector's consideration that the precise eventual clearance would depend on the nature of protective mesh to be installed under the bridge, to be determined at the detailed design stage (IR 5.43.66).

290. The Secretary of State notes the Inspector's view that, though the proposed fencing at the railway boundary would somewhat urbanise the landscape, this impact could be mitigated through design and choice of materials (IR 5.43.60).

291. The Secretary of State notes the Inspector's conclusion that the proposed alternative route via Thorley footpath 5 would be suitable and convenient for users of H06 (IR 5.43.72), and that its increased journey distance is unlikely to be inconvenient for users of the existing footpath (IR 5.43.63) and would be unlikely to disproportionately affect any group of users (IR 5.43.71).

292. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, H06 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.43.72), but H05 and H09 should **not** be included in the Order as the proposed alternatives would not be suitable and convenient (IR 5.43.73).

293. The Secretary of State notes that, as users of H06 are provided with a suitable and convenient alternative via footpath 5 and the underpass, the proposed alternative through Thorley Flood Pound SSSI is not required and therefore agrees with the Inspector that it

can be removed from the Order (the footpath between points P051, P053 and P054 listed in IR 14.4), eliminating the aforementioned problems with this route.

H08 Johnsons

294. The Secretary of State notes that H08 Johnsons carries Bishop's Stortford public footpath 60 over the railway (IR 5.44.1), and has been physically closed since 2014 when an adjacent fully accessible footbridge was constructed (IR 5.44.3). The Order would confer powers to formally close the crossing, extinguish the PROW over it, and create a PROW over the bridge (IR 5.44.4). Users would be diverted over this bridge (IR 5.44.5). The Secretary of State notes that there were no objections or representations to the proposal for H08 (IR 5.44.7).

295. The Secretary of State notes the Inspector's conclusion that the footbridge is ramped with an accessible gradient (IR 5.44.14), and would therefore provide a suitable and convenient alternative for those who would have used H02 before its closure (IR 5.44.16).

296. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the footbridge is a suitable and convenient alternative (IR 5.44.17).

HA1 Butts Lane

297. The Secretary of State notes that HA1 Butts Lane carries Havering public footpath 170 over the railway (IR 5.45.1). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 170 (IR 5.45.4). Users would be diverted over the remainder of footpath 170, the footways on the local road network, and a nearby footbridge over the railway (IR 5.45.5).

298. The Secretary of State notes the Inspector's view that the proposals are likely to lead to less disturbance for the owners of the properties which abut the part of footpath 170 to be extinguished (IR 5.45.15). The Secretary of State also notes the Inspector's view that HA1's closure was unlikely to have any impact upon Hornchurch Cutting SSSI, which the crossing borders (IR 5.45.18).

299. The Secretary of State notes Mr Atkins' (OBJ-176) objection to the alternative's length and safety (IR 5.45.13), but further notes the Inspector's conclusions that the evidence suggests HA1 serves a utilitarian function, that many journeys' additional length would be unlikely to be inconvenient to users depending on their origins and destinations (IR 5.45.24), and that the alternative is safe as users would be separated from vehicles at all times (IR 5.45.23). The Secretary of State further notes the Inspector's conclusion that including HA1 in the Order would not appear to lead to a likelihood that the PSED would not be met, as the alternative's increased distance would not give rise to disproportionality taking into account the physical condition of HA1's approaches (IR 5.45.26), and that the proposed alternative's footways and footbridge are large, level and of a low enough gradient to accommodate a wide range of people (IR 5.45.25).

300. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, HA1 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.45.28).

HA2 Woodhall Crescent

301. The Secretary of State notes that HA2 Woodhall Crescent carries Havering public footpath 172 over the railway (IR 5.46.1). The Order would confer powers to close the crossing and extinguish the whole of footpath 172 (IR 5.46.4). Users would be diverted over the footways of the local road network and the footbridge parallel to Wingletye Lane (IR 5.46.5).

302. The Secretary of State notes the Inspector's conclusion that the owners of properties next to footpath 172 would experience less disturbance were it to be extinguished (IR 5.46.15).

303. The Secretary of State further notes the Inspector's consideration of Natural England's (REP-04) assertion that HA2's closure is not likely to significantly affect the geological features for which Hornchurch Cutting SSSI, in which the crossing lies, was designated (IR 5.46.18). The Inspector also concludes that the erection of fencing would have no adverse impact on the landscape given its urbanised nature (IR 5.46.20).

304. The Secretary of State notes Mr Atkins' (OBJ-176) objection to the alternative's length and safety (IR 5.46.13), but further notes the Inspector's conclusions that the evidence suggests HA2 serves a utilitarian function, that many journeys' additional length would be unlikely to be inconvenient to users depending on their origins and destinations (IR 5.46.23), and that the alternative is safe as users would be separated from vehicles at all times (IR 5.46.22). The Secretary of State further notes the Inspector's conclusion that including HA2 in the Order would not appear to lead to a likelihood that the PSED would not be met, as the alternative's increased distance would not give rise to disproportionality taking into account the physical condition of HA2's approaches (IR 5.46.25), and that the proposed alternative's footways and footbridge are large, level and of a low enough gradient to accommodate a wide range of people (IR 5.46.24). The Inspector noted that although closure of HA2 would deprive users of a choice, they would not be inconvenienced by the closure (IR 5.46.26).

305. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, HA2 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.46.27).

HA3 Manor Farm and HA4 Eve's

306. The Secretary of State notes that HA3 Manor Farm carries Havering public footpath 251 over the railway (IR 5.47.1) although the crossing has not been accessible since the M25 was constructed and there is no sign of a crossing on the site, nor any sign of use of the path leading to the crossing (IR 5.47.2). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 251 (IR 5.47.6).

307. The Secretary of State notes that HA4 Eve's carries Havering public footpath 252 over the railway (IR 5.47.3). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 252 (IR 5.47.7).

308. The Order would also confer powers to create four new sections of footpath in nearby field margins. Users of both crossings would be diverted over two of these paths, the carriageway of Ockendon Road overbridge, the local footpath network and the footway on Ockendon Road. Users of HA4 would also use the two other new paths, the remainder of footpath 251, and the footway on Dennis Road (IR 5.47.8).

309. The Secretary of State notes the Inspector's conclusion that the proposed alternative route would lessen the burden on the land over which footpath 252 runs (IR 5.47.35). The Secretary of State however notes Mr Mee's (OBJ-013) concerns about the security of his land over which the new footpath would cross (IR 5.47.22). In addressing this, the Inspector concludes that detailed design of access and egress points may mitigate some of these concerns, and that the impacts of PROW creation may be addressed by detailed design and compensation (IR 5.47.36).

310. The Secretary of State notes the Inspector's conclusion that the proposed footpaths would adversely impact agriculture, but that disruption to the land's productive capacity would be minimised by the footpaths' location at field edges (IR 5.47.40). The Secretary of State further notes the Inspector's conclusion that the footpaths would be unsurfaced and are unlikely to have any significant impact upon the landscape (IR 5.47.41), and that there would be no further landscape impacts beyond those caused by removing the pedestrian crossing infrastructure and erecting fencing (IR 5.47.42).

311. The Secretary of State notes the Inspector's conclusion that the proposed alternative route would not be suitable and convenient for existing users of HA4 and HA3 (IR 5.47.53; note the Secretary of State's consideration of this at paragraph 315 below). The Secretary of State further notes the Inspector's view, concurring with objectors (IR 5.47.21, 5.47.24-30, 5.47.33) that the proposals for use of the Ockendon Road bridge would be unsafe (IR 5.47.52), as pedestrians using the bridge would have to walk in the road facing oncoming traffic under limited visibility (IR 5.47.47) on a road where vehicles regularly exceed speed limits (IR 5.47.49). The Secretary of State further notes that walkers would either have to lean out or step out into the road to tell if a car was coming (IR 5.47.48), a situation which the Inspector describes as "inherently unsafe" for pedestrians, particularly as vehicles exceed the speed limit (IR 5.47.49). The Inspector also highlighted that the Road Safety Audit recommended a footway be constructed on the bridge, but that no such provision to segregate pedestrians from vehicles is included in the proposal (IR 5.47.46, 5.47.49).

312. The Secretary of State also notes the Inspector's conclusion that users of HA4 would find the proposed alternative convoluted and counter-intuitive and therefore inconvenient in addition to the route being unsafe (IR 5.47.50). The Secretary of State further notes the Inspector's conclusion that the proposed alternative's limitations would affect those with protected characteristics to the same extent as the rest of the population (IR 5.47.51).

313. The Secretary of State however notes that the Inspector bases his method for assessing the alternative on guidance which states that "[i]f an alternative is to be

provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users". The Secretary of State has regard to the Inspector's consideration of the definition of 'existing users' as broader than the set of people currently using a crossing (IR 2.88-91), but does not consider that this extends to crossings for which there is no evidence of use, such as HA3. The Secretary of State in coming to this conclusion notes that there is no crossing infrastructure present and no evidence of use of the footpath leading to HA3 (IR 5.47.2) and that it has been presumed to be inaccessible since 1982 (NR-26, p. 179). Indeed, the Inspector describes its formal closure as regularising the current situation (IR 5.47.6).

314. The Secretary of State therefore is satisfied that the provision of an alternative right of way is not required, as per section 5(6) of the TWA. While the Secretary of State would welcome the provision of an alternative PROW, the Inspector's conclusion is that NR's proposal is unsafe (IR 5.47.52) and no safer proposed alternative has been suggested. The Secretary of State is therefore content for no alternative to be provided in this case, as the benefits of enhancing the PROW network would be outweighed by the safety risks to which users of the proposed alternative would be subject.

315. The Secretary of State therefore concludes that the closure of HA3 (and the extinguishment of the portion of footpath 251 which runs over it) should be included in the Order as no alternative is required. However, the Secretary of State agrees with the Inspector's conclusions that, taking account of the above matters, the proposal for HA4 should **not** be included in the Order as it would not provide a suitable and convenient alternative (IR 5.47.53).

T01 No. 131

316. The Secretary of State notes that T01 No. 131 carries Thurrock public footpath 145 over the railway (IR 5.48.1). The Order would confer powers to close the crossing, extinguish an adjacent part of footpath 145, and reroute part of footpath 145 to the east of the Arterial Road to replace a section liable to flooding (IR 5.48.5). Users would be diverted over this footpath and the footways of the local road network (IR 5.48.6).

317. The Secretary of State notes the Inspector's conclusion that any disturbance or loss caused by the new footpath can be addressed through compensation, but that the route as shown on Replacement Sheet 52 has been designed to address the concerns of the owners and occupiers of the land (IR 5.48.24); The Secretary of State also notes the Inspector's conclusion that the extinguishment of footpath 145 to the west of the Arterial Road would lift the burden on the land over which it runs (IR 5.48.25), but that there would be limited impacts on agricultural land due to the diversion of footpath 145 (IR 5.48.30).

318. The Secretary of State notes the Inspector's conclusion that the removal of footpath 145 under the High Speed 1 line is unlikely to have any material effect on the flooding which occurs there (IR 5.48.27). The Secretary of State further notes the Inspector's view that whether or not the underpass had been deliberately created to accommodate footpath 145 as part of High Speed 1 is not a matter for determination (IR 5.48.28).

319. The Secretary of State notes the Inspector's conclusion that T01's closure, and the proposed alternative, would have no adverse impact on the Rainham Marshes RSPB site (IR 5.48.29), and that erecting fencing would not materially impact the semi-urban landscape (IR 5.48.31). The Secretary of State understands that T01's closure would remove the need for whistle boards (IR 5.48.4), reducing train noise.

320. The Secretary of State notes the Inspector considered that the main issues between parties were the alternative route's length and its character compared with the current route (IR 5.48.33).

321. The Secretary of State notes the Inspector's view, following the Ramblers' objection (OBJ-148, IR 5.48.18), that, while the current route has a rural ambience (IR 5.48.34), the proposed alternative involved walking alongside large stationary vehicles with a nearby hedgerow strewn with litter, due to the verge serving as a lorry and trailer lay-by (IR 5.48.35). The Inspector also noted that pedestrians were also subjected to road noise and exhaust fumes (IR 5.48.32). Since receiving the Inspector's Report, the Secretary of State has become aware that the lay-by has been removed following works undertaken by Thurrock Council under Traffic Regulation No. 48 Order 2019. The removal of the lay-by means users will no longer have to walk alongside large stationary vehicles. The Secretary of State notes the Inspector's conclusion that section 5(6) of the TWA is concerned with whether the proposed alternative would perform the same function as the existing route, rather than being concerned with the route's ambience (IR 5.48.40), and that for the purposes of section 5(6) of the TWA, the alternative route is suitable and would serve the same purpose as footpath 145 (IR 5.48.41).

322. The Secretary of State notes that there would be an increase in journey time (IR 5.48.37) but that the proposed means of crossing Arterial Road would be safer than the current one (IR 5.48.36) removing the need to cross the railway at grade at a point where there is insufficient sighting (IR 5.48.38). The Secretary of State notes the Inspector's conclusions that, given the safety benefits, the route would be convenient despite this increased length (IR 5.48.41), and that, whilst the increase length might be an issue for some people, given the existing route's location and condition, including T01 in the Order would not appear to lead to a likelihood that PSED would not be met (IR 5.48.42).

323. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, this proposal should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.48.43).

T04 Jefferies

324. The Secretary of State notes that T04 Jefferies carries Thurrock public footpath 32 over the railway (IR 5.49.1). The Order would confer powers to close the crossing and extinguish an adjacent part of footpath 32 (IR 5.49.5). The Order would also confer powers to create a footpath along the railway's eastern side, steps on either side of the Manorway overbridge, and two footpaths on the railway's western side, one connecting to the severed end of footpath 32, the other connecting to footpath 36. Users would be diverted over these paths and the verge of the Manorway overbridge (IR 5.49.6, 5.49.8, 5.49.49).

325. The Secretary of State notes the Inspector's conclusion that the new footpath would impact the land over which it would run, that this would not be mitigated by the removal of a section of cross-field path, and that this would affect the productive capacity of this agricultural land (IR 5.49.42, 5.49.47), but that these adverse impacts could be mitigated by detailed design and compensation (IR 5.49.43).

326. The Secretary of State notes the Inspector's conclusion that the proposed alternative would have no adverse impact on Langdon Hills SSSI or Grove House Wood nature reserve nor on any of the features for which they have been designated (IR 5.49.46) and that erecting railway boundary fencing would not materially impact the semi-urban landscape (IR 5.49.48).

327. The Secretary of State notes the Inspector's conclusion, following objections (IR 5.49.39), that the noise level on Manorway overbridge is much greater than the level at T04 (IR 5.49.49). The Secretary of State further notes the Inspector's view, following objections (IR 5.49.24, 5.49.37), that the proposed alternative is excessively long and circuitous, greatly inconveniencing users of T04 (IR 5.49.52). The Inspector was of the view that, as the current crossing is flat and can be easily negotiated by all pedestrians, the increased length and introduction of 78 steps on the proposed alternative would limit its use by current users of T04, rendering it inconvenient and unsuitable, particularly for users with protected characteristics (IR 5.49.57). The Secretary of State further notes the Inspector's conclusion that the alternative's excessive length and stepped access (compared to the ease of negotiating T04) would limit its use by users with protected characteristics, causing a likelihood of the PSED not being met if T04 was included in the Order (IR 5.49.57), and that this would not be addressed by the underpass under Manorway, which would be of no assistance to users of T04 travelling north-west on footpath 32 (IR 5.49.56).

328. The Secretary of State notes the Inspector's consideration of the necessity of the footpath to the south of Manorway, a matter raised by Mr Benton, who proposed a routing via the A13 roundabout (IR 5.49.29-34). The Inspector notes that, while users of the alternative could seemingly negotiate this roundabout without issue, the footpath to the south of Manorway would provide additional PROW opportunities, therefore according with NPPF paragraph 100 (previously paragraph 98) (IR 5.49.54). The Inspector further considers that the alternative's length and accessibility problems would not be addressed by routing users via the A13 roundabout (IR 5.49.51).

329. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, T04 should **not** be included in the Order as the proposed alternatives would not be suitable or convenient (IR 5.49.59).

T05 Howells Farm

330. The Secretary of State notes that T05 Howells Farm carries Thurrock public footpath 23 over the railway (IR 5.50.1). The Order would confer powers to close the crossing, extinguish an adjacent part of footpath 23 (IR 5.50.5), and create a new footpath along the south of the railway and new steps from this path to Southend Road overbridge. Users would be diverted via two routes: a western route over the new footpath, new steps and footway on Southend Road (IR 5.50.6), and an eastern route via the carriageway of

Inglefield Road and the footways on High Road and Southend Road, crossing the railway at Fobbing level crossing (IR 5.50.7).

331. The Secretary of State notes Mr Keeling's (OBJ-194) and Mr Kent's concerns that the proposed new footpath would encourage trespass and impact the development potential of the land over which it would run (IR 5.50.27, 5.50.32). The Secretary of State further notes the Inspector's view that the risk of trespass and damage to the site could be mitigated with path furniture or other infrastructure (IR 5.50.44) and that impacts on landowners and occupiers could be addressed through detailed design or compensation (IR 5.50.45).

332. The Secretary of State notes the Inspector's conclusion that T05's closure would have no adverse impact upon the nearby Vange and Fobbing Marshes SSSI (IR 5.50.48).

333. The Secretary of State further notes the Inspector's judgement that, in addressing the recommendation by the Road Safety Audit (NR-16) and the Ramblers (OBJ-148-R4) that a footway would need to be constructed along Southend Road, there are no onward links on the section without a footway (IR 5.50.56) so diverted users would have no reason to use such a footway (IR 5.50.57). The Secretary of State also notes the Inspector's view that users making onward journeys are unlikely to be inconvenienced by the proposed alternatives, as they would maintain T05's current uses (IR 5.50.61), the additional lengths involved would be small, and the proposed alternative would remove the need for users to walk in the carriageway or verge in Southend Road (IR 5.50.62, 5.50.63).

334. The Secretary of State notes the Ramblers' (OBJ-148) objection to the western alternative's lack of accessibility (IR 5.50.40), but notes the Inspector's conclusion that, as the stiles and approaches of T05 currently exclude users with mobility impairments, the steps on the western alternative would not be inconvenient to those capable of undertaking a journey between Fobbing Marshes and One Tree Hill Country Park using footpath 32 (IR 5.50.53). The Secretary of State further notes the Inspector's view that the footway on the Southend Road overbridge is sufficiently wide to carry pedestrians in comfort and safety and that the use of the footway can be considered to be safe (IR 5.50.54).

335. The Secretary of State notes the Inspector's consideration of safety concerns on the eastern alternative regarding the discontinuous footway on the western side of High Road (IR 5.50.58), highlighted by OBJ-148 (IR 5.50.35). The Secretary of State notes the Inspector's view that there was some merit in NR's submission that as High Road is used by 50 pedestrians per day without issue, the discontinuous footway issue does not need to be rectified (IR 5.50.59). The Inspector concluded that whilst there may be a risk involved, the existing infrastructure of dropped kerbs and tactile paving mitigates this risk (IR 5.50.60). The Secretary of State sought further clarity on the safety of this route and consulted NR on 22 September 2020. NR responded in its letter of 6 October 2020 that users were expected to cross to the eastern side of High Road, which has a footway for this stretch, and then return to the western side. NR noted that current users of T05 must use Southend Road, which has no footways. The Secretary of State is satisfied with NR's reasoning on this matter and that there are no additional safety concerns compared with the existing route.

336. The Inspector considered that whilst the inclusion of steps in the alternative route was not ideal, given the character and restrictions of the existing route, steps would not be unreasonable. The Secretary of States notes that the Inspector concluded that inclusion of T05 in the Order would not appear to lead to a likelihood that PSED would not be met (IR 5.50.64).

337. The Secretary of State agrees with the Inspector's conclusions that, taking account of these matters, T05 should be included in the Order as the proposed alternative would be suitable and convenient (IR 5.50.65).

General Representations

338. The Secretary of State notes a number of general representations, including those objecting to the increased risk presented by many of the proposed alternative routes (IR 6.3, 6.8) and the length of the proposed alternatives (IR 6.4, 6.9). The Secretary of State considers that these issues have been adequately considered on a crossing-by-crossing basis.

339. Following receipt of the Inspector's Report, the Secretary of State received a further representation from Wivenhoe Town Council (OBJ-029). This representation contends that the Inspector for the Order considered only whether the proposed alternative route for each crossing was satisfactory, in contrast to the approach of the Inspector for the Network Rail (Suffolk Level Crossing Reduction) Order 2020. The Secretary of State does not agree with OBJ-029 on this matter. The Secretary of State considers that each application needs to be considered on its own merits and, as outlined in paragraph 16 above, it is the Secretary of State's view that the Inspector for the present Order has considered the necessity, suitability and convenience of the proposed alternative route as part of his conclusion for each crossing, and has additionally considered the strategic case for the Order as a whole.

340. The Secretary of State received a number of other representations after receiving the IR. These mostly concerned the time taken to reach a decision. The Secretary of State does not consider that these representations raised any substantive issues not already addressed in the IR or in this letter.

Mitigation and Protective Provisions

341. The Secretary of State notes the Environment Agency's objection that the protective provisions in Schedule 13 to the Order should be for deemed refusal rather than deemed consent (IR 7.22), to allow for consistency between TWA orders and Development Consent Orders (IR 7.25). The Secretary of State agrees with the Inspector's conclusion that the principle of deemed consent is consistent with other TWA orders (IR 7.30) and the protective provisions in Schedule 13 do not require modification (IR 7.33).

Compulsory Purchase

342. The Secretary of State notes that NR proposes to temporarily acquire land, with potential permanent acquisition having been resolved by negotiation (IR 8.6). NR also proposes to acquire permanent rights of access over land, though the rights acquired are

in effect temporary, to be exercised only in relation to the proposed works (IR 8.8). The Secretary of State further notes the Inspector’s conclusion that the public benefits of the scheme are sufficient to justify interference with the landowners’ human rights (IR 8.27), that interference with land is kept to that which is required to secure the purposes of the Order (IR 8.23), and that the Order provides provisions for compensation (IR 8.18-8.22).

343. The Secretary of State accepts the Inspector’s conclusion that, with the exception of the crossings to be excluded from the Order, there is a compelling case in the public interest to justify compulsory purchase (IR 8.29), that funding is likely to be available in a timely manner (IR 8.32), that the use of compulsory purchase is required to allow NR to complete the scheme in a timely manner (IR 8.33), and that there are no impediments to the scheme’s implementation (IR 8.34).

Conditions to be attached to the Deemed Planning Permission

344. The Secretary of State notes the Inspector’s conclusion that the proposed Conditions to be attached to the deemed planning permission would be necessary, relevant, precise, enforceable and reasonable (IR 9.7). Where not already stated in this letter, the Secretary of State agrees to the proposed amendments to the Conditions as set out in IR Appendix 10.

Proposed Modifications to the Order

345. Where not already stated in this letter, the Secretary of State agrees to the proposed modifications to the Order as set out in IR 14.4.

346. The Secretary of State is making a number of other minor textual amendments to the Order in the interests of clarity, consistency and precision. He considers that none of these changes materially alter the effect of the Order. These modifications are:

- Article 2 (interpretation): The definition of electronic transmission has been amended to reflect the position of the Secretary of State
- Article 17 (power to survey and investigate land): This provision has been amended with the insertion of new paragraphs (3) to (5) and paragraph (6)(d) and (e)

Secretary of State’s overall conclusion and decision

347. The Secretary of State agrees with the Inspector’s view that, for all the reasons given above, the case for making the Order has been made. He agrees with the Inspector’s view that, for some of the crossings under consideration, the balance has not been found to merit inclusion within the final made Order. The table below summarises the recommendation for each crossing that should be included in the Order.

Crossing number	Crossing name	Recommendation	
		Include	Do not include
E01	Old Lane	Include	
E02	Camps	Include	
E04	Parndon Mill	Include	
E05	Fullers End		Do not include
E06	Elsenham Emergency Hut	Include with modifications	

Crossing number	Crossing name	Recommendation	
		Include	Do not include
E07	Ugley Lane	Include	
E08	Henham	Include with modifications	
E09	Elephant	Include	
E10	Dixies		Do not include
E11	Windmills	Include	
E13	Littlebury Gate House		Do not include
E15	Margaretting	Include	
E16	Maldon Road	Include	
E17	Boreham		Do not include
E18	Noakes	Include	
E19	Potters		Do not include
E20	Snivellers	Include with modifications	
E21	Hill House 1	Include	
E22	Great Domsey	Include	
E23	Long Green	Include	
E25	Church 2	Include	
E26	Barbara Close	Include with modifications	
E28	Whipps Farmers	Include	
E29	Brown & Tawse		Do not include
E30	Ferry	Include	
E31	Brickyard Farm	Include	
E32	Woodgrange Close		Do not include
E33	Motorbike		Do not include
E35	Cranes No. 1	Include	
E36	Cranes No. 2	Include	
E37	Essex Way		Do not include
E38	Battlesbridge		Do not include
E41	Paget		Do not include
E43	High Elm		Do not include
E45	Great Bentley Station	Include	
E46	Lords No. 1	Include	
E47	Bluehouse	Include	
E48	Wheatsheaf	Include with modifications	
E49	Maria Street		Do not include
E51	Thornfield Wood		Do not include
E52	Golden Square		Do not include
E54	Bures		Do not include
E56	Abbotts	Include	
H01	Trinity Lane	Include	
H02	Cadmore Lane	Include	
H04	Tednambury	Include with modifications	
H05	Pattens		Do not include
H06	Gilston	Include	
H08	Johnsons	Include	
H09	Fowlers		Do not include

Crossing number	Crossing name	Recommendation	
		Include	Do not include
HA1	Butts Lane	Include	
HA2	Woodhall Crescent	Include	
HA3	Manor Farm	Include	
HA4	Eve's		Do not include
T01	No. 131	Include	
T04	Jefferies		Do not include
T05	Howells Farm	Include	

Notice under section 14 of the TWA

348. This letter constitutes the Secretary of State's notice of his determination to make the Order with modifications, for the purposes of section 14(1)(a) and section 14(2) of the TWA. Your clients are required to publish notices of the determination in accordance with section 14(4) of the TWA.

Challenges to the Decision

349. The circumstances in which the Secretary of State's decision may be challenged is set out in the note attached to Annex B to this letter.

Distribution

350. Copies of this letter are being sent to those who appeared at the inquiry and to all statutory objectors whose objections were referred to the inquiry under section 11(3) of the TWA but who did not appear.

Yours sincerely,

Natasha Kopala

Interpretation

In the following conditions: –

“the development” means the development authorised by the Order;

“the local planning authority” means Basildon District Council, Braintree District Council, Brentwood Borough Council, Broxbourne Borough Council, Castle Point Borough Council, Chelmsford City Council, Colchester Borough Council, East Hertfordshire District Council, Epping Forest District Council, Harlow District Council, London Borough of Havering, Rochford District Council, Southend-on-Sea Borough Council, Tendring District Council, Thurrock Council, Uttlesford District Council as respects development in their respective areas;

“Network Rail” means Network Rail Infrastructure Limited;

“the Order” means the Network Rail (Essex and Others Level Crossing Reduction) Order 2022;

“Precautionary Method of Works” means The Anglia Level Crossing Reduction Strategy Precautionary Method of Works December 2017 prepared by Mott Macdonald; and

“the scheduled monument” means the crop mark site south of Ardleigh in the District of Tendring, list entry number 1002146.

Time limit for commencement of development

1. The development must commence before the expiration of five years from the date that the Order comes into force.

Reason: To set a reasonable time limit for the commencement of the development and to avoid blight.

Detailed design approval

2. No development for a footbridge shall commence until written details of its design and external appearance, including finishing materials have been submitted in writing to and approved by the local planning authority. The development shall be carried out in accordance with the details approved by the local planning authority.

Reason: To ensure compliance with agreed details and satisfactory external appearance for the development.

Ecology

3. During the bird nesting season (1 March to 31 August), trees and any other suitable habitat affected by the works shall be searched for nesting birds and if any

nesting birds are found the nest shall be protected until the young have fledged and left the nest.

4. In relation to protected species, where relevant, the development shall be carried out in accordance with the Precautionary Method of Works.

Reason: To protect the ecological value of the area.

Archaeology

5. No development shall commence until a scheme identifying: (a) any location where a watching brief is required during construction, and (b) appropriate measures to be taken if any significant archaeological remains are found, is submitted in writing and approved by the local planning authority.

Reason: To ensure that archaeological artefacts and information are preserved.

Working hours

6. Except where:
 - (a) work is taking place on Network Rail's land, or
 - (b) works in, to or affecting the highway are confirmed by the relevant highway authority to require it

construction of the development shall only be carried out between the hours of 8.00 am and 6.00pm.

Reason: To preserve local amenity

Approval and implementation under these conditions

7. Where under any of these conditions the approval or agreement of the local planning authority is required, that approval or agreement must be given in writing. The development must be carried out in accordance with any such approval or agreement, or any subsequent revisions that have been submitted to, and approved by, the local planning authority.

Reason: To provide for certainty in the approvals and implementation processes.

Scheduled Monument

8. No physical works (including signposting) will be undertaken so as not to disturb the scheduled monument.

Reason: To protect the scheduled monument site.

Informative note: The highway authority should be consulted on any works affecting the highway.

ANNEX B

RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA

Any person who is aggrieved by the making of the Order may challenge its validity, or the validity of any provision in it, because—

- it is not within the powers of the TWA; or
- any requirement imposed by or under the TWA has not been complied with.

Any such challenge may be made, by application to the High Court, within the period of 42 days beginning with the day on which notice of this determination is published in the London Gazette as required by section 14(1)(b) of the TWA. This notice is expected to be published within 3 working days of the date of this decision letter.

A person who thinks they may have grounds for challenging the decision to make the Order is advised to seek legal advice before taking