



Report to the Secretary of State for Transport

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an Inspector appointed by the Secretary of State for Transport

Date: 12 December 2011

HIGHWAYS ACT 1980

ESSEX COUNTY COUNCIL

**INSTALLATION OF CATTLE GRIDS AND BY-PASSES WITHIN EPPING FOREST
AT WAKE ROAD, CROSS ROADS, RANGERS ROAD AND FOREST SIDE**

Date of Inquiry: 22 November 2011 to 24 November 2011

File Ref: NATTRAN/E/CATTLE GRIDS/01

Contents

	Case Details	1
1	Preamble	1
2	Description of the Sites and Surroundings	2
3	Legal Submissions	3
4	The Case for Essex County Council	4
5	The Case for the Supporters	14
6	The Case for the Objectors	14
7	Conclusions	24
8	Recommendation	28
	Appendices	
A	Appearances	29
B	Documents	30
C	Abbreviations	32
D	Conditions	33

Case Details

- The installation of 4 cattle-grids and by-passes is made pursuant to section 82 of the Highways Act 1980 by Essex County Council.
- Essex County Council (the Highway Authority) submitted the applications for consent to the Secretary of State for Transport.
- If consent is given, Essex County Council may provide cattle grids and by-passes within Epping Forest at Wake Road, Cross Roads, Rangers Road and Forest Side.
- When the inquiry opened there were 56 objections. No objections were withdrawn.

Summary of Recommendation: The application be allowed and consent given subject to conditions.

1. Preamble

- 1.1 I held an inquiry at High Beach Village Hall, Avey Lane, High Beach on 22 November 2011 to 24 November 2011 to hear representations and objections concerning the applications made by Essex County Council (ECC), for consent to install the above cattle grids and by-passes.
- 1.2 ECC has indicated that the purposes of the cattle grids are to keep cattle within the Forest and away from heavily trafficked roads in the area in order to achieve a step change in the levels of grazing that is required for the future conservation and enhancement of the Forest's natural aspect, in accordance with the Epping Forest Act 1878 and the general duty to protect the Site of Special Scientific Interest (SSSI)¹.
- 1.3 I was appointed to conduct the inquiry in accordance with Schedule 10 of the Highways Act 1980 (1980 Act).
- 1.4 I carried out an accompanied site inspection of the proposed sites of the cattle grids, the site of trials of invisible fencing at Catacombs Corner and the site of a gate at Lincoln's Lane, together with the surrounding area, prior to hearing the closing submissions on 24 November. I was accompanied by Mr Sprunt of ECC, Dr Dagley of the Conservators of Epping Forest, Mr Renetzke, Chair of Epping Forest Riders Association (EFRA), and Ms Adams, Chairman of The Friends of Epping Forest (FEF). I also completed an unaccompanied site visit on 21 November 2011.
- 1.5 By the close of the inquiry, none of the objectors had withdrawn their objections. EFRA and the FEF appeared at the inquiry. One objection was from the FEF and 2 of the objections were from EFRA, with 5 of the other objectors appearing as witnesses for EFRA.
- 1.6 The main grounds for objection were related to the risk of the cattle grids to horses and other animals, cyclists and motorcyclists; the effect of the cattle grids and by-passes on access to Epping Forest for horse riders, horse and carriages, pedestrians and disabled users; the use of alternative means of controlling cattle; and whether it is necessary for the future conservation and enhancement of Epping Forest's natural aspect to increase grazing.

¹ Documents ID1 Section C and ECC27 para 3 (ii) on page 2.

- 1.7 Two letters of support were received prior to the inquiry. One is from Natural England (NE), who gave evidence at the inquiry on behalf of ECC.
- 1.8 At the inquiry, ECC, as the Highway Authority, confirmed that it had complied with all necessary statutory formalities and provided signed notices confirming compliance². Although representations were made prior to the inquiry regarding the accessibility of the documents for inspection and the inquiry venue³, these matters were not raised at the inquiry.
- 1.9 At the inquiry, EFRA made legal submissions⁴ that the proposals could not lawfully be executed as they would be contrary to section 7(1) of the Epping Forest Act 1878⁵ (1878 Act). More details are given in part 3 of this report.
- 1.10 This report contains a brief description of the site and surroundings, the gist of the cases presented and the legal submissions together with my conclusions and recommendation. A list of those appearing is contained in Appendix A; the inquiry documents that are attached, including proofs of evidence, are listed in Appendix B; abbreviations used in the report are given in Appendix C; and suggested conditions should consent be given are provided in Appendix D.

2. Description of the Sites and Surroundings

- 2.1 Epping Forest consists of some 2,476 hectares of 'Forest Land', designated under the 1878 Act, stretching some 19 km from 'Forest Gate' in east London to the town of Epping in Essex. A further 720 hectares of surrounding farmed estate forms 'Buffer Land' to protect the setting of the Forest. Within Epping Forest there is over 97.2 km of shared use trails, 52 car parks, 3 visitor centres, a café/restaurant, 7 refreshment kiosks and a field studies centre, together with a range of formal sports facilities that include a public and 3 private golf courses, 3 cricket pitches and 64 football pitches⁶.
- 2.2 Epping Forest is dissected by several roads, including the A104 and A121, and is close to the M25 and the A406 North Circular. There are cattle grids on the A12 and near to the A406 North Circular in the southern part of the Forest⁷. Riding stables are located near to the proposed cattle grid locations and within the part of Epping Forest where cattle grazing is proposed⁸.
- 2.3 The locations of the cattle grids would be at Forest Side, about 40 metres south of the junction with the A121 Honey Lane; at Cross Roads, about 160 metres north-west of the junction with the A104 Epping New Road; at Wake Road, about 30 metres south-west of the junction with the A121 Woodridden Hill, and at Rangers Road, about 130 metres south-west of the junction with the A104 Epping New Road⁹.
- 2.4 Forest Side cattle grid location is on a relatively narrow paved lane to the west of an open plain, known as Honey Plain, and south-west of a car park that is at the corner of the junction of Forest Side and Honey Lane. The speed limit on

² Document ECC41.

³ Document ID2.

⁴ Document EFRA12 paras 50-63.

⁵ Document ECC5.

⁶ Document ECC29 paras 3.4 to 3.5 on page 31.

⁷ Document ECC36 Figure 3.1 on page 184.

⁸ Document ECC36 Figure 3.2 on page 186.

⁹ Document ID1 Section C.

Forest Side is restricted to 30 mph near to the cattle grid location. The by-pass would be located on the east side of the lane in an area that includes scrubland, a tree and a ditch. Opposite the junction with Honey Lane is a one-way triangular junction with Woodgreen Road. Further along the lane to the south of the proposed cattle grid location is an access to a surfaced horse ride, known as 'Rifle Butts'.

- 2.5 Wake Road cattle grid location is on a relatively narrow paved lane that forms a junction with Woodridden Hill, near to the roundabout junction with the A104 Epping New Road. The speed limit on Wake Road is restricted to 30 mph near to the cattle grid location. It is within a relatively dense area of woodland. The by-pass would be on the east side of the lane in an area that has some trees within it. A surfaced horse ride, known as 'Verderers' Ride' runs roughly parallel with Wake Road and crosses Woodridden Hill further to the west.
- 2.6 Cross Roads cattle grid location is between the junction of the paved lane with the A104 at Robin Hood Roundabout and a car park, known as the 'Tea Hut' at the junction with Fairmead Road. It is wooded on both sides and the land rises quite steeply up to the Tea Hut car park. A public footpath runs through the woodland from Cross Roads near to the roundabout to a point near to the car park. The by-pass would be located on the south-west side of the lane in an area that has some trees within it.
- 2.7 Rangers Road cattle grid location is on a main road that runs through a wooded part of the Forest. It is subject to a 40 mph speed limit. The by-pass would be located on the south-east side of the road. A horse ride known as 'Taylor's Ride' crosses the road near to the grid location.
- 2.8 A gate has been erected within a fence on the west side of the A104 Epping New Road, opposite a car park at Lincoln's Lane. This provides access for horse riders to a number of routes within Epping Forest. Trials of 'invisible fencing' have taken place at 'Catacombs Corner', which includes an area of mixed open plain and woodland and part of Church Road. At this location, Church Road is a narrow paved lane.

3. Legal Submissions

The material points are:

The Legal Submissions for Epping Forest Riders Association (EFRA)¹⁰

- 3.1 The installation of the by-pass gates and the dedication of those alternative routes as part of the highway would not be contrary to the 1878 Act¹¹, as they are expressly permitted by section 33(1)(iv).
- 3.2 The proposal to fence the part of the Forest in the area of the proposed cattle grids and by-passes would create an 'inclosure' that is contrary not only to the spirit, but also to the letter, of the 1878 Act.
- 3.3 The first legal opinion sought by the City of London (CoL) in 2006 about the lawfulness of fencing that it had erected in 2002 cites section 7(1) of the 1878 Act, highlighting the words: '*subject to the provisions of this Act*', and

¹⁰ Document EFRA12 paras 50-63.

¹¹ Document ECC5.

concluding that enclosing the land is not prohibited because that is permitted by section 33(1)(iii). This opinion is unclear and/or flawed.

- 3.4 The fencing proposed is an 'inclosure' for the purposes of section 7(1), as it would be a continuous cordon around a section of the Forest and is therefore expressly prohibited under this section of the 1878 Act except where other provisions apply. The power to make 'inclosures' in section 33(1)(iii) can only be read to apply to the purposes in sections 33(1)(i) and 33(1)(ii) and cannot be read to imply a more general power where none is expressed or a more general exclusion to an express prohibition in Section 7(1). Neither section 33(1)(i) nor section 33(1)(ii) make reference to cattle management, which is covered by section 33(1)(x), but appear to be confined to the specific activities mentioned which correlate to those prohibited in section 7(3). This interpretation is supported by the fact that the period for which the enclosure may be made for a particular purpose is '*only as shall be sufficient for the attainment thereof*'. The interpretation of what is meant by the 'judgment of the Conservators' is a question of law, but if they act without or contrary to their powers, that is unlawful.
- 3.5 The 1878 Act was specifically put in place to ensure that the Forest would not be enclosed in recognition of its special character as an open place of recreation. This supports EFRA's conclusion that the extent of fencing proposed is not permitted under the 1878 Act.
- 3.6 If the fencing necessary in order that the cattle grids are of any material effect is unlawful, it is strong reason for finding that the proposals would not be expedient.

Response for Essex County Council on the Legal Submissions¹²

- 3.7 Whether or not the installation of fencing amounts to enclosure contrary to the 1878 Act is not a matter for the Secretary of State to determine or even take into account when making her decision on the expediency of the installation of the proposed cattle grids. In any event, the position of ECC is set out in the 2 opinions of Frank Hinks QC in 2006¹³.
- 3.8 It cannot be said there would be a continuous cordon around the Forest as a result of the fencing proposals as there would be access for equestrians at numerous points and 'squeeze gaps' every 20 metres. The Forest would not be 'enclosed' in any sense of the word.

4. The Case for Essex County Council

The material points are:

Background

- 4.1 The 1878 Act confirmed the CoL as the Conservators of Epping Forest and established the following 6 key responsibilities for its protection¹⁴:
- i) Regulation and Management of the Forest;

¹² Document ECC40 para 46

¹³ Document ECC1 pages 38 to 54.

¹⁴ Document ECC29 pages 33 to 35.

- ii) Preservation of Commoners' Rights;
- iii) Preservation of Open Space;
- iv) Preservation of Natural Aspect;
- v) Preservation of Forest Heritage Features; and
- vi) Provision of Public Recreation.

4.2 The continuation of the common of pasture through cattle browsing and grazing is closely linked with the two responsibilities for preservation of commoners' rights and the natural aspect¹⁵.

4.3 Only grazing can produce the intimate mixture of:

- short vegetation, suitable for many low-growing flowers;
- tufts of taller vegetation, providing cover for insects, lizards and small mammals and suitable for insect larvae or pupae; and
- small patches of bare ground in the form of hoof prints, for seeds to germinate and new seedlings to become established and provide basking sites for insects and lizards.

The alternative of mowing by machine leads to the destruction, or shading by uncut vegetation, of ant hills which support several plants and provide one of the main food resources for green woodpeckers. Grazing also helps to prevent the spread of holly and bracken in woodland areas and may help to maintain the form of pollards. Finally, cow dung supports over 100 different species of beetles and flies, which provide food for other insects, birds, lizards and bats¹⁶.

4.4 There is evidence that grazing has been undertaken for over 1000 years¹⁷. To reverse the decline in grazing since the 1950s, the CoL's 25-30 year Grazing Strategy¹⁸, which was developed in 2006, proposes an expansion of the existing 300 hectare grazing area to a 700 hectare area for the re-establishment of free-range grazing. The proposal is for an increase in cattle numbers to about 150 with their retention across the full grazing season from April until November and freedom to move across the full range of habitats and transitions between them¹⁹. This requires the requisite controls to address the risks.

4.5 The Heritage Lottery Fund approved the 'Branching Out' Project in 2009²⁰, with funds provided for the infrastructure of grazing controls in the form of fencing and cattle grids. NE approved a Stewardship for the Forest in 2008 to provide financial support over 10 years, until 2018, to assist the CoL in the restoration of favourable condition to the Epping Forest SSSI, including the grazing of cattle and the trial of invisible fencing technology. The proposed cattle grids, alongside the wooden and invisible fencing, herding and a new grazing

¹⁵ Document ECC29 para 7.3 on page 38.

¹⁶ Document ECC33 paras 7.2 to 7.5 on pages 128 to 129.

¹⁷ Document ECC31 para 7.2 on page 70.

¹⁸ Document ECC1.

¹⁹ Document ECC31 paras 6.3 to 6.7 on pages 66 to 68.

²⁰ Document ECC42.

contract, are critical to achieving the fundamental aim of re-establishing grazing and preventing its loss after centuries of continuity²¹.

4.6 The Epping Forest Transport Strategy 2009-2016 (EFTS) has the following objectives²²:

- To take a Forest-centric approach in the formulation of transport proposals, reflecting the unique characteristics and international importance of the Forest environment.
- To provide improved accessibility to the Forest for all users especially those arriving by public transport or on foot, bicycle or horse-back.
- To reduce the visual impact of roads and fragmentation of the Forest landscape where possible through reconsidering the functions of the local road network, its infrastructure and design.
- To enhance road safety and reduce severance by improving crossing points for all users across the Forest.
- To protect the ancient rights of grazing and inter-commonage.
- To support and integrate with the conservation management of the Forest.

4.7 The EFTS selected cattle grids, combined with wooden fencing, as a key control to allow a large area of extensive grazing to be restored to the Forest. Cattle grids are the nationally established fail safe method and have been part of the Forest scene for many years. These proposals have been prepared in the light of feedback from extensive consultations and in the light of the availability of innovative technology. The 4 cattle grids are essential if the traditional system of land management that has shaped the Forest landscape for centuries is to be re-established²³.

4.8 The locations have been chosen to take into consideration environmental issues; safety issues, with all grids located on roads with either 30 or 40 mph speed limits; drainage; underground utilities; land availability; buildability; cost, with each grid and by-pass estimated at 2011 prices to be £41,300; cattle management; legal considerations; and public consultation²⁴. Forest Side and Wake Road cattle grids would coincide with gateways and so would help to change the perceptions of those travelling through the Forest and slow traffic speeds by demarcating the Forest as a special highways area or zone. The sites are immediately adjacent to the strategic road network and are considered vital to meet the road safety obligations of the Highway Authority²⁵.

4.9 British Standard by-pass routes would be provided at the 4 cattle grids and there are other connecting routes for horses, cyclists and pedestrians that lie entirely within the Forest and do not require horse-riders or others to use by-pass gates to visit the Forest. The proposed gates on the by-passes would be

²¹ Document ECC31 paras 6.9 to 6.11 on page 69.

²² Document ECC36 paras 2.1 and 2.2 on page 181.

²³ Document ECC31 paras 9.1 to 9.20 on pages 80 to 87.

²⁴ Document ECC35 Section 5 on pages 148 to 150.

²⁵ Document ECC36 Section 3 on pages 184 to 189.

10 feet (3 metres) wide and two-way opening with a hydraulic self-closing mechanism to ensure that they close at a slow rate, similar to that which has been trialled at Fairmead on the well-used Lincoln's Lane crossing. They would be two-part galvanised gates which would be lighter than timber gates and would open half-width for horse riders and fully for wider vehicles, with the half width gate located furthest from the grid. They would be fitted with an 'Easy Latch' hooped long handle²⁶.

- 4.10 The by-pass surface would use a recycled plastic-grass grid which would be compatible with the Forest surroundings, durable and suitable for equestrian and cycle use²⁷. Mounting blocks would be provided either side of each by-pass which would not obstruct other by-pass users²⁸.
- 4.11 The cattle grids would be designed for highway loadings and use and conform to British Standard BS4008 and Design Standard BD37/88. They would have flat bars to conform to the requirements of cyclists given by Sustrans. They would have provision for drainage and escapes for small animals. They would be one-piece construction with hollow sand filled bars to reduce the noise. The remaining noise would be low frequency and therefore less likely to be startling to horses. Three of the cattle grids would be located over 100 metres from residential property and Forest Side would be some 75 metres from the Volunteer public house where the impact of the noise would be deadened by the background noise of traffic on the A121²⁹.
- 4.12 Warning signs would be provide, with due consideration for their location in Epping Forest. The visibility to and from the cattle grids is important and the overall footprints of the grids and by-passes have been carefully assessed to ensure minimal impact on the ecology of the surrounding forest. Water run-off from the grid would be accommodated in nearby ponds and ditches with permission obtained where necessary³⁰.
- 4.13 The proposals have been fully safety audited by an independent team of Road Safety experts and their recommendations complied with³¹.

The Issues

- 4.14 The 3 principal issues associated with the proposals have been identified as including the risk to horses and other highway users and the use of alternative means of controlling cattle. With regard to the issue of whether there is a need to increase grazing on Epping Forest, there is a lawfully adopted grazing strategy under which 150 cattle are to be re-introduced into Epping Forest if consent is granted. The only impediment to the re-introduction of cattle in this number is the need to provide a physical barrier to prevent cattle from straying onto some of the most heavily trafficked roads within Epping Forest.

The Legal Test

²⁶ Document ECC35 Section 3 on pages 142 to 144.

²⁷ Document ECC35 Section 4 on page 146.

²⁸ Document ECC35 Section 7.6 on page 153.

²⁹ Document ECC35 Section 2 on pages 139 to 141.

³⁰ Document ECC35 Sections 5.3 and 5.4 on pages 148 to 149.

³¹ Document ECC35 Section 7.3 on page 152.

- 4.15 Whilst the test of expediency is a broad one, it must be considered within limits and against the background of the lawfully adopted policies of public bodies. Therefore, in deciding whether the installation of the grids is expedient (i.e. suitable and appropriate) regard should be had to the lawfully adopted EFTS³² and the Grazing Strategy of the CoL³³.
- 4.16 The peripheral issues which have been raised such as whether there has been adequate consultation on the CoL's proposals; whether accessibility to the Forest would be reduced as a result of the proposed fencing remote from the cattle grids and whether the local authority has complied with its public sector equality duties are all irrelevant to the question of whether it would be expedient to install the 4 cattle grids.

Risk to Horses and other Highway Users

- 4.17 EFRA has presented no data or robust evidence on any danger to horses from the installation of cattle grids³⁴. The news articles and press releases concerning horses trapped in grids³⁵ do not contain sufficient detail to attribute any weight to them. It is wholly unclear what the precise nature of the incident was; how it occurred; whether the incidents occurred on a public highway; whether they occurred on a cattle grid constructed to the British Standard; or whether, if the incident took place on a private grid, that grid was in any way similar to the proposed grids.
- 4.18 Substantial weight should be attached to the evidence of Mr Gerelli, Agister of the New Forest, and the unchallenged statistic provided by Ms Young who reported on incidents from the New Forest attended by Hampshire Fire and Rescue Service (HFRS). Mr Gerelli confirmed that, between the Agisters and HFRS, every incident of an animal being caught in a grid would be known³⁶.
- 4.19 The New Forest has a perimeter protected by cattle grids and there are approximately 130 cattle grids on the highway in or around the New Forest. Mr Gerelli's unchallenged evidence was that, within the New Forest, there are about 4,500 feral ponies and 2,500 cattle, and only 3 riding schools, with the majority of equestrians coming into the Forest from outside the perimeter, including from several riding schools³⁷. These equestrians successfully negotiate the New Forest cattle grids with associated by-passes on a daily basis. There is no actual evidence before the inquiry that these equestrians are any different from the equestrians who access Epping Forest.
- 4.20 In the last 20 years, there had only been a handful of incidents in the New Forest of feral ponies being trapped in cattle grids on the highway maintained by the local authority³⁸. The incidents recorded by Jim Green, the Rural Risk Manager for HFRS who is responsible for any private equestrian incidents in the New Forest³⁹, demonstrate that there has been no incident associated with

³² Document ECC2.

³³ Document ECC1.

³⁴ Mr King conceded under cross examination.

³⁵ Document EFRA6 pages 5-4 to 5-25.

³⁶ Oral evidence of Mr Gerelli.

³⁷ Document ECC38 para 1.4 on page 208 and oral evidence of Mr Gerelli.

³⁸ Document ECC38 para 1.5 on page 209.

³⁹ Document ECC36 para 5.2.3 on page 195.

a publicly maintained grid since 2004 and those incidents he does report occurred in private grids.

- 4.21 A letter from the British Horse Society (BHS), who represents nearly 5 million horse riders, to ECC contains the following about horse safety:

'Riders have expressed concerns over the existence and location of the proposed cattle grids and fencing. The Society's access officers have investigated safety fears with cattle grids, and have found minimal evidence of any problems. They conclude that the stated opposition to cattle grids is more due to perception problems rather than reality'⁴⁰.

The BHS has not retracted its view expressed on 19th February 2009 in its subsequent letter⁴¹.

- 4.22 The ADAS report, specifically commissioned for the purposes of an examination of risk and compiled by experts on cattle and equestrians⁴², concluded under 'Grid Design':

'The use of a by-pass gate complying with the British Standard that is well maintained should pose a low risk of injury to horse and rider or driver'⁴³;

and under 'Traffic Noise':

'...this risk is considered low in this situation as modern grids are considerably quieter than older type grids due to the use of dampers'⁴⁴.

In taking account the concerns of EFRA about horse riders, the report concluded:

'However, in reality the risk of injury to horses from grids is considered to be relatively low and, on balance, it is considered that the risk to the horse from traffic and to other road users is significantly higher if a horse is running free on the public highway'⁴⁵.

- 4.23 With regard to a pony and trap driver, there is nothing preventing them from making use of the by-pass gates, even if it might cause inconvenience for a sole driver at first. The Access and Rights of Way Co-ordinator of the British Driving Society (BDS), the representative body of pony and trap drivers advised⁴⁶:

'The BDS recommends that you should always drive with a groom for health and safety i.e. to hold the horse's head when mounting and dismounting, at junctions, to open gates and assist with any incidents or emergencies;

'The insertion of cattle grids with by-pass gates should not be a problem providing they are properly fenced and the gate is sufficiently wide i.e. at least 10 feet (3 metres) and not less than 6 feet (1.8 metres)'; and

⁴⁰ Document ECC15 page 303.

⁴¹ Document EFRA7.

⁴² Document ECC10 Section 11 on page 238.

⁴³ Document ECC10 para 5.4.4 (a) on page 210.

⁴⁴ Document ECC10 para 5.4.4 (b) on page 211.

⁴⁵ Document ECC10 para 10.3.3 on page 235.

⁴⁶ Document ECC10 page 261.

'Carriage drivers must have a basic level of competence to be on the highway and should be able to cope with grids and by-pass gates'.

Mr Gerelli's evidence to the inquiry was that an individual should normally be driving with a groom and, even if they are not, he described how it was still possible to make use of the by-pass gates⁴⁷.

- 4.24 Evidence has been provided to show that the grid locations do not actually attract substantial numbers of equestrians in any event⁴⁸. On Easter Saturday 2011 Cross Roads, Rangers Road and Wake Road had no horses proceeding along them within a 12 hour period and Forest Side had a single equestrian. No weight should be attributed to the contention that the figures are not an accurate reflection of the position as they were compiled on Easter Saturday when there were likely to be fewer equestrians in the Forest, as no evidence has been presented to substantiate this and a control site at Wellington Hill recorded 21 horses moving along the highway.
- 4.25 No evidence has been presented concerning any increased risk to other lawful users of the highway. Consequently, it cannot be concluded that there is any such increased risk.

Alternative Means of Controlling Cattle

- 4.26 EFRA has presented no evidence as to the effectiveness of the Boviguard system or any other system of cattle control. The consultancy firm, ADAS, who assessed various alternative cattle control methods⁴⁹ concluded:

*'The most effective, and most tried-and-tested, means of cattle movement control is the use of permanent fencing, gates and cattle grids. The use of temporary electric fencing, herding, GPS tracking, high visibility collars and cow activated illuminated signs are secondary control methods with reduced effectiveness and reliability'*⁵⁰.

- 4.27 The principal alternative to cattle grids which EFRA has promoted is the Boviguard system. This system is known to the CoL and ECC and the CoL has conducted trials in Epping Forest, which have influenced the development of its approach to the number and location of the grids. The number of grids proposed has been reduced from 13 in the original proposal to 4, partly due to the CoL's and ECC's appreciation that invisible fencing can be an effective alternative to cattle grids in appropriate circumstances. Its trials have demonstrated that invisible fencing is not failsafe and cannot wholly be relied upon to prevent cattle from straying on to the heavily trafficked roads close to the proposed grid locations. Ms Young provided the inquiry with evidence of daily traffic levels on the roads adjacent to the proposed grids sites⁵¹. This evidence has not been challenged by any of the principal parties to this inquiry.
- 4.28 The invisible fencing trials of the Boviguard system originally involved 5 cows grazing within a traditionally wooden fenced paddock at The Warren and one

⁴⁷ Oral evidence of Mr Gerelli.

⁴⁸ Document ECC36 Table 4.3 and para 4.3.8 on page 193.

⁴⁹ Document ECC10 pages 211 to 218.

⁵⁰ Document ECC10 para 10.1.1 on page 233.

⁵¹ Document ECC36 Table 4.1 on page 190.

of the collars failed and one of the remaining functioning collars fell off a cow⁵². Any failure of a system which is in its infancy justifies a strong level of caution, particularly when the proposal is for control mechanisms to be placed adjacent to heavily trafficked roads. At a subsequent trial, where there were 11 cattle in the herd, cows initially breached the invisible fencing before learning and adapting to its boundaries. This demonstrated that the technology is heavily dependent on cattle behaviour and does not provide a physical barrier to accessing roads. Dr Dagley, who has indicated that he will produce a report on the trials in early 2012⁵³, concludes:

*'Its reliability is likely to depend on circumstances, such as the speed at which the cattle are moving, the number of cattle in the herd and the stimulus producing movement of the cattle. A sufficiently strong stimulus from people or dogs, for example, could result in the cows breaching the barrier'*⁵⁴.

- 4.29 When considering whether the alternative to physical grids is such as to make the present proposals inexpedient, it would have to be established that the alternative is not just equally expedient but so much more expedient than the proposals such that the proposals are rendered inexpedient. There is no reliable evidence before the inquiry of any alternative which reaches this standard.
- 4.30 As to an alternative proposal that all cattle introduced under the Grazing Strategy be managed by a herdsman, no evidence is presented of cost, practicality or effectiveness of such a proposal. As such, no weight can be attributed to this alternative.

Whether there is a Need for Increased Grazing in Epping Forest

- 4.31 The CoL has established that there is both a need and imperative that Epping Forest is subject to extensive grazing once again. It is incorrect to limit or focus grazing to the southern grassland areas for the following reasons:
- i. Epping Forest is described as one of only a few remaining large-scale examples of 'wood pasture' in lowland Britain and exemplifies all 3 of the main wood-pasture types found in Britain: beech-oak, hornbeam-oak and mixed oak⁵⁵. The preservation of wood pasture within as much of the Epping Forest as possible is vital. Wood pasture cannot be divided such that its focus is on the grassland and heathland areas. It is to be taken as a whole.
 - ii. Part of the step change contended for by the CoL is that the area covered by grazing would for the first time encompass the full range of forest habitats, both in open plain and wooded and the transitions between them, ensuring the recovery and maintenance of wood pasture structure of the Forest⁵⁶.

⁵² Document ECC31 paras 12.5 and 12.6 on page 97.

⁵³ Dr Dagley under cross examination.

⁵⁴ Document ECC31 para 12.10 on page 100.

⁵⁵ Document ECC31 para 8.3 on page 79.

⁵⁶ Document ECC31 para 6.6 on page 67.

- iii. Grazing across the full range of the Forest is vital to retain and fully restore the landscape of Epping Forest which is an intricate mosaic of different habitat types with transitions between them.
- iv. Transitions and edges of the mosaics of habitats is the most important for biodiversity, especially for invertebrates and birds⁵⁷. Epping Forest's invertebrate biodiversity is of national significance with many rare species. This would involve grazing cattle in both the south and north of the Forest.
- v. The transitions between the range of habitats will be lost if grazing is limited to particular areas⁵⁸. A dynamic scrub-grass mix can be created in transitions and edges between habitats which are important for flowering shrubs and associated invertebrates like butterflies, bumblebees and hoverflies. Important forest species benefit from these edges and mixes⁵⁹. If grazing is limited to the south, the north of the Forest will continue to decline and its biodiversity will not be sustained.
- vi. There are specific species of plant which are found within the areas protected by the 4 proposed cattle grids that can flourish once again should cattle be reintroduced⁶⁰.
- vii. Grazing has been a critical component of the habitat in the more high-forest like wood pasture amongst the beeches and the oaks, which are typical of the north of the Forest⁶¹. Chatters and Sanderson comments⁶²: '*The condition of surviving high forest pasture woodlands which are not grazed is a matter of grave concern. The absence of grazing leads to rapid regeneration of trees and shrubs, which quickly fill the glades and open woodland canopy*'. The absence of grazing these areas would result in pasture woodland becoming a more simplified habitat, with ecological niches required by open-ground species and pasture woodland specialists being eliminated⁶³.
- viii. Those areas in the north which have developed shrubs and infill will be opened up when cattle are reintroduced to further facilitate their grazing in those areas. There is no evidence before the inquiry to prove that this will be ineffective or that cows will not remain in those areas.

4.32 Whilst there are no commoners currently exercising grazing rights over the Forest, it does not mean that commoners' rights should not be protected to allow them to graze in the future. It is not, nor has it ever been, the objective of the CoL that the Forest should be converted into an "open savannah" woodland area. The strategy of the Conservators is more complex and reflects the varied nature of the Forest taking into account the need for the protection and enhancement of the individual landscape components that comprise the natural aspect. This includes the species and densities of mature trees and, most especially, the pattern of veteran pollarded trees. The criticism of the

⁵⁷ Ms Adams conceded under cross examination.

⁵⁸ Document ECC31 para 7.11 on page 73.

⁵⁹ Document ECC31 para 7.20 on page 77.

⁶⁰ Document ECC31 para 7.13 on page 75 and accepted by Ms Adams on cross examination.

⁶¹ Ms Adams accepted under cross examination.

⁶² Document ECC31B para 13 page 105G.

⁶³ Ms Adams accepted under cross examination.

number of cows which the CoL plan for grazing does not take account of the fact that the cows can be moved in small herds from one area of the Forest to another⁶⁴. It is a central feature of the Conservators' vision that the full range of forest habitats be grazed, including ancient open-grown pollarded trees, scrub, heathland, grassland and densely treed areas, as well as the transitional areas themselves⁶⁵.

- 4.33 The FEF's overly limited approach to wood pasture would not be in keeping with the history of grazing within the Forest and would not protect its favourable condition or conserve or enhance its biodiversity as is the responsibility of public bodies⁶⁶.

Accessibility to the Forest

- 4.34 There would not be any material diminution of use or accessibility of the Forest as a result of the proposals. The by-pass gates would be constructed to the British Standard which would resolve 'all access issues', including compliance with the Equality Act 2010⁶⁷. The survey conducted in 2005 by EFRA was at a time when the present proposals were unknown to the public and its questions were flawed, leading and imprecise. The Easter Saturday survey data demonstrates that the grid locations are such as not to attract material numbers of equestrians in any event⁶⁸.
- 4.35 Those riders, cyclists or pedestrians who, for whatever reason, seek to avoid the by-pass gates can make use of alternative routes to access the Forest at Forest Side, Wake Road and Cross Roads⁶⁹. ECC proposes that the by-pass gates remain open during the winter when cattle are not grazing such that access at the 4 locations during this period would not require the opening of the gate by users.

Consultation

- 4.36 Consultation was carried out at each stage of the process. The chronology lists each stage of consultation and demonstrates a thoughtful approach to the present proposals⁷⁰. That consultation was full and wide-ranging. It resulted in a revision of the original 13 grid locations and the embracing of invisible fencing technology at appropriate locations. It was only following that consultation process that the present proposals were advanced. This is another factor demonstrating the expediency for the installation of the grids.

Fencing

- 4.37 The definition of 'cattle-grid' within section 82(6) of the 1980 Act provides that it means:

⁶⁴ Ms Adams accepted under cross examination.

⁶⁵ Ms Adams accepted under cross examination that these habitats were important and the high tree pasture woodland to the north of the forest ought to be preserved.

⁶⁶ Document ECC33 para 4.4 on page 113.

⁶⁷ Document ECC43 Paragraph E.18 on page 21 of the 'Authorising structures (gaps, gates & stiles) on rights of way'.

⁶⁸ Document ECC36 Table 4.3 on page 193.

⁶⁹ Document ECC31A.

⁷⁰ Document ECC3.

'a device designed to prevent the passage of animals, or animals of any particular description, but to allow the passage of all or some other traffic, and includes any fence or other works necessary for securing the efficient operation of the said device;'

- 4.38 The entire fencing proposals of the CoL should not be considered in deciding whether the installation of the 4 cattle grids is expedient. The above definition of 'cattle grid' includes any fence which is necessary for the efficient operation of the grid. This would be limited to the areas of fencing immediately adjacent to the grid which ensure that the cattle do not simply avoid the grid by walking around it. Areas of fencing further away from the grid do not fall within this remit. Furthermore, there would be nothing to prevent the CoL from installing fencing on its own land in any event. An area of fencing was installed in 2002 set back from the A104 without the need for planning permission. Therefore, as a fall-back position, the CoL are entitled to place fencing on its land and this should not form part of the consideration as to whether the installation of the 4 grids is expedient.
- 4.39 It is not accepted that access to the Forest would be materially reduced. There is no evidence base demonstrating this. The access adjacent to the A104 is unlikely to be used heavily in light of the busyness of that road, and there would be gates available within the fencing for equestrians where it is used and 'squeeze gaps' every 20 metres for cyclists and pedestrians.
- 4.40 Young or inexperienced riders accessing the Forest from outside the grid locations must have become accustomed to crossing busy roads, such as the A104, to access the Forest. Therefore, there is nothing to suggest that they could not adapt to the use of by-pass gates.

Conclusion

- 4.41 As a result of the above and the evidence given at the inquiry, it is submitted that it is expedient for cattle grids and associated by-passes to be installed at the locations proposed.

5 The Case for the Supporters

The material points are:

- 5.1 The case for NE⁷¹ is represented by the case for ECC. The other letter of support⁷² is from a horse rider in Epping Forest who also leads groups of riders for Queen Elizabeth Riding School. She feels that the location of the proposed cattle grids is acceptable as they are away from the rides that most horses use and that the Rangers Road grid should be located to avoid the bridleway that crosses that road.

6 The Case for the Objectors

The material points are:

Epping Forest Riders Association (EFRA)

Introduction

⁷¹ Document ID1 Section G reference 43.

⁷² Document ID1 Section G reference 49.

- 6.1 EFRA is recognised by the CoL, the BHS and Epping Forest District Council as the representative body for horse riders and those with an interest in horse riding in and around Epping Forest. There are about 220 members, which include horse riding families and trade members, such as livery stables. Horse riders are only allowed to ride in the Forest if they own a licence, of which there are about 480. A licence may be shared between 2 to 3 people and a riding school may have one licence per horse, which means that about 1000 riders would be affected by the proposals⁷³.
- 6.2 The cattle grids are promoted as part of a number of strategies and proposals, including the Epping Forest Grazing Strategy (EFGS) prepared by the CoL, acting as Conservators of Epping Forest, and are a deliverable component of the Branching Out project for which CoL submitted a proposal in 2008 and received Heritage Lottery Funding in August 2009. They are also connected to the EFTS which was approved on 11 May 2009. In this respect, the public consultation process has been misleading as it has not included information about the full implications of the cattle grids⁷⁴. A survey of EFRA members carried out regarding proposals indicates that 59.5% of those surveyed would move on or cease riding if cattle grids were installed⁷⁵. Also, there were 56 objections received to the current proposals.

The Issue

- 6.3 The issue of whether it would be expedient to consent the cattle grids must in this case be determined having regard to:
- (a) The impact of the cattle grids and by-pass gates on the safety of users of the Forest, in particular equestrian users and horses.
 - (b) The impact of the proposals on the use and enjoyment of users of the Forest.
 - (c) The impact of the proposals on the character of the Forest.
 - (d) The lawfulness of the proposals that would 'inclose' a large section of the Forest contrary to the 1878 Act.
 - (e) The financial cost of the proposals.
 - (f) The availability of alternatives to the proposals.
 - (g) The need to introduce cattle to the Forest.

EFRA accepts that increased grazing in Epping Forest is both justified and beneficial in ecological terms.

- 6.4 What is 'expedient' for the purpose of section 82 of the 1980 Act is broad. In *R (Stewart) v SSE (1980)*, concerned the question in section 110(2) of whether it is 'expedient' to confirm a public path extinguishment order, Phillips J set out⁷⁶:

⁷³ Document EFRA2A paras 5 and 6 on page 1-7.

⁷⁴ Document EFRA2A paras 10 to 14 on pages 1-8 to 1-9.

⁷⁵ Document EFRA6 page 5-40.

⁷⁶ *R (Stewart) v SSE (1980)* para 538.

'... the only criterion that section 110 (2) lays down is whether it is "expedient" to confirm the order having regard to the extent to which it appears to the Secretary of State that the path would be likely to be used. It thus concentrates on user as being, at all events, the prime consideration. I agree, however, with the submission made on behalf of the applicant that the word "expedient" must mean that, to some extent at all events, other considerations can be brought into play, because, if that were not so, there would be no room for a judgment, which is bound to be of a broad character, as to whether or not it is "expedient".'

The position under section 82 is stronger than under section 110(2) because there is no direction or qualification as to what particular elements fall to be considered within expedience.

Fencing

- 6.5 The cattle grids would not be effective unless they were connected by an effective barrier. It would not be expedient to introduce cattle grids if the barrier necessitated by their introduction would itself be unacceptable. Therefore, the acceptability of the fencing proposed is directly relevant and the fencing should be considered because:
- i) Section 82(4) of the 1980 Act does not suggest that the factors going to what is "expedient" are limited and section 82(6) does not affect the interpretation of expedient.
 - ii) Epping Forest is very largely open. What is proposed is free-range grazing, and cattle grids and barrier fencing are proposed as interlinked and necessary controls for this. Widespread '*barrier fencing is likely to be needed at other places in the Forest if the grazing is to be extended*'⁷⁷.
 - iii) The proposed fencing is not a 'fall-back position' because there is no likelihood that it would be erected unless the cattle grids are consented⁷⁸.
 - iv) The erection of the fencing would be likely to be unlawful under the 1878 Act⁷⁹.
 - v) ECC relies upon a number of alternative routes into the Forest to offset the impact of the cattle grids that would be interrupted by the fence and therefore require gates⁸⁰.

Safety

- 6.6 There is nothing about the design of the proposed cattle grids that eliminates or mitigates the seriousness of the potential outcome of when horses step on and get trapped in them⁸¹. The users of Epping Forest are a different nature

⁷⁷ Document ECC1 para 4.3.2 on page 22.

⁷⁸ Oral evidence given by ECC/CoL's witnesses that if the proposals are not consented it is not intended to extend the grazing on the same fully free-range basis.

⁷⁹ Legal Submissions detailed in part 3 of this report.

⁸⁰ Document ECC31 Section 11.

⁸¹ Document EFRA6 pages 5-4 to 5-25.

to those of the New Forest⁸², as they are generally urban riders that are more likely to be novices and less-attuned or less-frequenting in countryside activities like horse riding; and the density of users is greater, including bicycle and motor cycle events⁸³. There are also a number of young riders. The risk in Epping Forest of horses throwing off their rider and horses bolting is great. If horses do bolt they tend to head back for home which could mean over any of the proposed grids, either because that is the most direct route over the open road or because their habit is to use the site unimpeded by the grid⁸⁴. There would be a risk that horses would get trapped in the cattle grids. There is also the perception of danger to horses by riders⁸⁵.

Use and Enjoyment

- 6.7 One of the Forest's major attractions is the lack of barriers (grids, fencing and gates) to access⁸⁶. Cattle grids are not ideal in an area of as high horse concentration as in Epping Forest⁸⁷. The proposals would impact directly and negatively on users' access and enjoyment of the Forest, in particular equestrians, in the following ways:
- Local lanes would be crossed by cattle grids with by-pass gates in 4 locations;
 - A large number of gates would be erected in place of open rides or bridleway access that would create challenges⁸⁸ and be an inconvenience⁸⁹; and
 - Fencing would block what was a free-range area of riding in the middle of the Forest around the A104.
- 6.8 Although the EFTS includes improvements to access and one of its key objectives is *'providing improved accessibility to the Forest for all users, especially those arriving by public transport or on foot, bicycle or horse-back'*, the proposals would have a negative impact on access to the Forest. They would introduce a significant number of obstacles into this large section of forest environment where currently there is only one gate (Lincoln's Lane) and no cattle grids. Evidence has been given about the difficulty of using Lincoln's Lane gate⁹⁰.
- 6.9 EFRA accepts that, relative to Wellington Hill, the equestrian use of routes involving the 4 proposed grids is limited. While there is some occasional use of the part of Rangers Road where the cattle grid would be located⁹¹, it is not so substantial that, in light of the arrangements on the amended plan for Rangers Road⁹², EFRA would raise a concern on safety or use grounds about this grid alone. Forest Side (or Honey Lane) is used by horse riders from

⁸² Oral evidence of Mr King and cross-examination of Mr Gerelli.

⁸³ Oral evidence of Mr Liddle.

⁸⁴ Oral evidence of Mrs Bovis.

⁸⁵ Document ID1 Section H reference 1, 4, 5, 6, 7 et al and Document ECC15.

⁸⁶ Document ID1 Section H reference 14.

⁸⁷ Document EFRA7.

⁸⁸ Oral evidence of Mr Thomson.

⁸⁹ Oral evidence of Mr Sprunt.

⁹⁰ Document EFRA2A para 18 and oral evidence of Mrs Godwin, Mrs Mostafa and Mr Vyner.

⁹¹ Oral evidence of Mr Vyner.

⁹² Document ECC31A Fig 7.

stables in the north, such as Woodredon⁹³, and on a circular route using the one way roads north of the car park. The Forest Side cattle grid and fencing with 3 new gates near to the car park would significantly restrict access. The Wake Road cattle grid location is on a circular route⁹⁴ and is used to enter the Forest⁹⁵. The alternative route shown⁹⁶ is a different route altogether and is shown on another plan as a short ride for horses terminating just opposite the entrance to Wake Road⁹⁷. Although there is also significant evidence of use of Cross Roads at the grid location⁹⁸, the most used locations are Forest Side and Wake Road⁹⁹. The proposed alternative route at Cross Roads would not be suitable as it would join the road at a steep junction¹⁰⁰.

- 6.10 The non-motorised user survey shows zero use at Rangers Road, but at the other sites equestrian use is registered¹⁰¹. As the survey was conducted on a busy Easter weekend which is one of the first weekends of free-range riding in the year, fewer riders would have been out on those roads¹⁰². A greater number of riders are recorded at Wellington Hill because that route is more popular, being a link to a busy stables area.
- 6.11 The use of the by-pass gates by horse and carriage could be an awkward manoeuvre if a carriage driver is alone¹⁰³. The ADAS report of 2010 records 12 carriage drivers that use the Forest on a regular basis¹⁰⁴. Serious concerns about the proposal have been expressed by a pony and trap driver who often travels alone¹⁰⁵.
- 6.12 The proposed fencing would obstruct free-range riding on the east side of the Forest and would prevent free-ranging where at the moment horse riders cross, with the loss of 2 additional regularly used points of crossing the A121 to those proposed to be provided¹⁰⁶.

Character of Epping Forest

- 6.13 As a result of the proposals, a number of large signs¹⁰⁷ would be erected in the Forest, which would be incongruous and intrusive, not akin to the Forest environment, and the associated fencing would, by its nature, be visually obtrusive. The character of the land is open and the fencing would diminish that for all users, which is similar to the situation at Kenley Common that was opposed by the CoL¹⁰⁸. Similarly, the ADAS report considered that fencing at

⁹³ Oral evidence of Ms Pummel.

⁹⁴ Oral evidence of Mr Liddle.

⁹⁵ Oral evidence of Ms Pummel, Mrs Godwin and Mr Vyner.

⁹⁶ Document ECC31A Fig 5.

⁹⁷ Document ECC31C.

⁹⁸ Oral evidence of Mr Liddle and Mr Vyner.

⁹⁹ Document EFRA2A para 30.

¹⁰⁰ Oral evidence of Mr Liddle.

¹⁰¹ Document ECC36 page 197L.

¹⁰² Oral evidence of Mr Liddle and Mrs Bovis that she does not ride at weekends or bank holidays.

¹⁰³ Accepted by Mr Gerelli under cross examination.

¹⁰⁴ Document ECC10 footnote to para 5.4.3 on page 209.

¹⁰⁵ Oral evidence of Mrs Johnson.

¹⁰⁶ Oral evidence of Mr Liddle.

¹⁰⁷ Document ECC18 pages 574, 578, 584 and 585.

¹⁰⁸ Document EFRA6 page 3-14.

Chingford would have been visually obtrusive¹⁰⁹. The Open Spaces Society leaflet on cattle grids captures the sentiment¹¹⁰.

- 6.14 The fact that the fence would largely run against the A104 and A121, which are busy roads, does not alter or undermine this conclusion because users experience the Forest from positions along the road, hence the need for crossing points if the fencing is erected. Furthermore, part of the longer term EFTS is an aspiration that the A104 becomes a more permeable part of the Forest¹¹¹ and the proposal is for a 40 mph limit along the A121 which also cuts through the Forest. Both of those proposals are in accordance with the forest-centric objective of the EFTS¹¹².
- 6.15 With regard to the 1878 Act, ECC appear to have focussed in an unbalanced way upon the words 'natural aspect' in section 7(3), overlooking the importance of section 7(1)¹¹³, which covers the true 'heart of the Act' as being the provision protecting open space.

Financial Cost

- 6.16 The substantial cost of installing and maintaining the cattle grids is relevant, given that the alternatives available are cheaper. Cattle grids are expensive: £41,300 per grid and by-pass¹¹⁴, and EFRA's understanding is that it would be £250,000 to £300,000 for installing the 4 grids and by-passes. The cost of maintenance is recognised to be £2,000 per year for a single half-day check of 4 grids¹¹⁵. Similarly, the fencing is recognised in the ADAS document as representing a '*significant capital and maintenance cost*'¹¹⁶.

Alternatives

- 6.17 Alternatives that would be available and would be less restrictive than the proposals are highly relevant to making a decision as to expedience. This is uncontroversial and well-established¹¹⁷. ECC/CoL has not demonstrated that cattle grids and the many kilometres of wooden fencing proposed are necessary in order to acceptably control the risk of cattle wandering onto the busier roads. One alternative is the use of herdsmen, which has been successfully used in the trial areas¹¹⁸. The principal alternative put forward by EFRA is the use of an innovative, yet available, technique called invisible fencing (or proximity fencing, or Boviguard). This, used together if necessary with a herdsman or monitoring, would be sufficient to control the risk to a desirable level. To the extent that further certainty is required (which is not accepted) there is no reason why that cannot, and ought not to be, investigated before the cattle grid infrastructure is installed.

¹⁰⁹ Document ECC10 page 194.

¹¹⁰ Document ECC9 para 20 on page 184.

¹¹¹ Document ECC1 Section 5.3 on page 29.

¹¹² Ms Young under cross examination.

¹¹³ Document ECC5 page 135.

¹¹⁴ Document ECC35A para 5.8.1 on page 150.

¹¹⁵ Oral evidence by Mr Withers.

¹¹⁶ Document ECC10 page 194.

¹¹⁷ *Ramblers' Association v Coventry CC* [2009] PTSR 715 per Michael Supperstone QC at para 31.

¹¹⁸ Document EFRA6 page 5-34.

- 6.18 Within Epping Forest there have been trials of the invisible fencing system which have been described as successful. Invisible fencing would be less restrictive for recreational users of the Forest than the proposals and would have a number of advantages¹¹⁹. It would represent a genuine and effective alternative because of the following:
- It is available on the market and EFRA is aware that it is being used successfully in at least France and Australia.
 - It has been trialled in the Forest¹²⁰ and those trials have been relatively successful, the last trial ending about 3 weeks before the inquiry and there were no breaches of the barrier¹²¹.
 - It has worked successfully as an invisible cattle grid at the site on Catacombs Corner.
 - It has apparently been successfully trialled adjacent to a main road at Deershelter Plain.
 - It is proposed to be used at a number of areas in the western and southern side of the Forest where general traffic levels are low.
 - It is proposed at Brook Road adjacent to the busy A110 Whitehall Road, which demonstrates the technology's acceptability near to busy roads.
- 6.19 The concerns about animal behaviour are regarding cattle breaching an invisible fence if they get used to crossing those points earlier in a season or if stimulated by, say, a dog, but these appeared surmountable in the scenarios tested¹²². On a Boviguard film¹²³ cows were shown to be repulsed notwithstanding the apparent attraction of feeding¹²⁴. Properly managed, Boviguard would be good enough to minimise the risks.
- 6.20 There does not appear to have been testing in remote locations unfamiliar to cattle, which is important because an assessment of the efficacy of the system against free-ranging cattle can only be undertaken in free-ranging conditions. The evidence of the behaviour of free-ranging cattle suggests that it may be relatively easy to manage them. In the New Forest National Park there are a large number of free-ranging cattle that gather and have a certain area where they are grazed¹²⁵. A similar pattern is recorded using a full time 'herdsman' with free-ranging herds at Epping Forest in 2007¹²⁶. Mr Wyatt accepted that 'there are various ways that cattle can be managed', including where they are put at the beginning of a season, and the historic position of commoners' herds was similarly predictable¹²⁷.

¹¹⁹ Document EFRA2A para 26 on page 1-13.

¹²⁰ Document ECC31 paras 12.5 to 12.11 on pages 97 to 101.

¹²¹ Oral evidence of Dr Dagley.

¹²² Document ECC31 para 12.10 on page 100.

¹²³ Short film demonstrating the use of Boviguard for a field boundary shown at the inquiry.

¹²⁴ Oral evidence of Mr King.

¹²⁵ Oral evidence of Mr Gerelli.

¹²⁶ Document EFRA6 page 5-34.

¹²⁷ Mr Wyatt under cross examination.

- 6.21 The length of the wires needed for invisible fencing and the strength of signal needed could be resolved by booster batteries if necessary¹²⁸. The collars could be modified or adapted so that they worked properly and did not fall off. Concerns about disturbance of the wire may be able to be resolved by using a heavier cable or another protective measure¹²⁹.
- 6.22 Boviguard is tried and tested to a significant extent and could be applied, together with monitoring, to some or all of the northern and eastern parts of the Forest and in particular to some of the locations of the cattle grids. The expedience of following a course which would allow for further testing of virtual fencing prior to the installation of cattle grids is underscored by the fact that free-ranging cattle will have cow collars in any event for virtual fencing in other locations¹³⁰. Furthermore, there is no sense of urgency about the introduction of cattle in maximum numbers as EFGS is a long-term proposal up to 2030¹³¹. Dr Dagley confirmed that grazing will probably be increased to 150 over the next 6 years, although the decision is ultimately for the grazier, depending on the circumstances¹³². Ms Young confirmed that grazing would not start immediately but would wait for the controls on the western side to be in place¹³³.
- 6.23 The invisible fencing trials have been funded by CoL, ECC and NE. Dr Dagley states that a report will be produced on the invisible fencing¹³⁴, but it would not go beyond section 12 of his proof of evidence¹³⁵. This is not a sufficient basis to assess the potential viability of invisible fencing, as it does not provide details of the locations or topography where the testing took place, the numbers or types of cattle involved, the varying success of Boviguard given different factors and different stimuli used, or any statistical analysis. Also, 3 weeks of apparently successful testing occurred after he wrote his proof of evidence.
- 6.24 It is at least necessary to see more details of the trials before deciding that the invisible fencing is not a viable alternative. Once the report on the trials is out, which is expected to be early in 2012, further submissions in writing can be made upon it as necessary by the parties. Therefore, the decision should not be made until after the report on invisible fencing has been considered.

Conclusions

- 6.25 For the above reasons it would not be expedient to consent to the proposals. However, should the installation of cattle grids and by-passes be recommended, EFRA has a number of proposed conditions to alleviate their effect¹³⁶.

The Friends of Epping Forest (FEF)¹³⁷

¹²⁸ Oral evidence of Mr Liddle.

¹²⁹ Oral evidence of Mr King.

¹³⁰ Mr Sprunt under cross examination.

¹³¹ Document ECC1 Section 5.3 on page 29.

¹³² Oral evidence of Dr Dagley.

¹³³ Oral evidence of Ms Young.

¹³⁴ Document EFRA9.

¹³⁵ Oral evidence of Dr Dagley.

¹³⁶ Documents EFRA1 page 1-5 and EFRA2 para 32 on page 1-15.

¹³⁷ Documents FEF1, FEF2 and ID1 Section H reference 57.

- 6.26 The FEF is a registered charity, established in 1969 that is dedicated to protecting Epping Forest in accordance with the 1878 Act and to furthering the understanding, knowledge about, and appreciation of the Forest. The FEF has over 1600 members and runs a programme of walks and occasional events, and produces a regular newsletter and occasional publications about the Forest¹³⁸.
- 6.27 The FEF's objection is that the 'expedient' threshold for the proposed cattle grids has not been met because the rationale does not stand up to scrutiny and will not be able to be achieved with the resources indicated. This would put at risk the Forest environment, amenity, landscape and biodiversity.
- 6.28 There are currently no Commoners exercising their rights in the area provided for by the 4 proposed cattle grids and there have been no Commoners exercising their rights since 1996 except for a small trial site. The 1878 Act is for the disafforestation of Epping Forest and the preservation and management of the unenclosed parts thereof as an open space for the recreation and enjoyment of the public. Therefore, it is wrong to give 'enabling Commoners to graze cattle' as a key justification for the proposed works.
- 6.29 The open nature of the wood pasture proposed for the Forest is not required to maintain and improve the nature conservation interest of the Forest, is not validated historically, and is not likely to be feasible or sustainable. Also, the amount of wood clearance required to enable open wood pasture would reduce the landscape and amenity value of the area¹³⁹.
- 6.30 The proposed 150 cattle would be insufficient to have a significant positive impact on the woodland and other habitats and, taking account of the other parts of the Forest currently being grazed, would not be sufficient to even maintain the existing high priority grassland and heaths. If the proposed grazing could not be sufficient to control re-growth, the relevant woodland would be in a substantially worse state than at the moment. Furthermore, cattle on the area north of Robin Hood/Church Road would be in conflict with people and vehicles on the heavily used roads to High Beach and, with the proposed high number of people in that area, would pose significant risk of serious damage to the historically important 'Pillow Mounds' and the unstable west facing slope below them.
- 6.31 The substantial invisible and wooden fencing that would be required for the western and southern edge, and tree removal and crown reduction of large numbers of veteran oak and beech required to facilitate grazing, would be slow and labour intensive with a significant cost.
- 6.32 An alternative proposal would be to install an invisible fence from the end of the existing fencing near the Robin Hood crossroads westwards to Church Road. This would enable the southern part of the proposed 700 hectare area to support free-range grazing and remove the need for the 3 northern cattle grids and several miles of fencing. The need for the fourth cattle grid could be obviated by extending the invisible fencing along the northern edge of Rangers Road. These works would remove the potential vehicle/cattle conflict, particularly in relation to the A104 and the A121.

¹³⁸ Document FEF1 para 1.3 on page 2.

¹³⁹ Document FEF1 paras 6.8 to 6.26 on pages 10 to 15.

6.33 The important small grass/heathland areas (Honey Lane Plain and Sunshine Plain) in the northern part could be dealt with using temporary fencing as currently being used. The number of cattle could make a more significant positive impact within the resulting reduced very large southern area. The northern area could be improved through an incremental approach with initial grazing by corral and herding followed by extensive grazing. This would allow the potential of the habitat and wood pasture to be explored prior to considering more extensive cattle grazing in the northern area¹⁴⁰.

Written Representations of Objection

6.34 Of the 56 written objections, 7 appeared for and/or were represented by EFRA¹⁴¹ and one appeared for and represented the FEF¹⁴². Of the other objections, most of the grounds are those given by EFRA or the FEF. The other following relevant grounds were given:

- i) The cattle grids would be a danger to cyclists and motorcyclists, particularly when wet¹⁴³.
- ii) The by-pass gates would be an obstacle to use by people with disabilities, particularly those in a wheel chair, contrary to the Discrimination against the Disabled Act¹⁴⁴.
- iii) Traffic would speed up when using the cattle grids, creating a noise that would disturb horses and local residents¹⁴⁵.
- iv) The resulting increase in grazing cattle would be intimidating and would scare children and dogs¹⁴⁶.
- v) The cattle grids would be a danger to deer and small animals that would get trapped¹⁴⁷.
- vi) Noise from the vehicles using the cattle grids would be a nuisance to local residents¹⁴⁸.

¹⁴⁰ Document FEF2 paras 8 to 13.

¹⁴¹ Document ID1 Section H reference 2, 7, 20, 35, 39, 47 and 51.

¹⁴² Document ID1 Section H reference 57.

¹⁴³ Document ID1 Section H reference 3, 5, 6, 9, 14, 15, 17, 18, 21, 22, 23, 25, 26, 28, 29, 33, 37, 38, 42, 44 and 45.

¹⁴⁴ Document ID1 Section H reference 6, 12, 15, 17, 21, 22, 23, 24, 25, 26, 27, 28, 33 and 38.

¹⁴⁵ Document ID1 Section H reference 9, 24, 29, 30, 36, 37, 38, 40, 41, 45, 46, 48 and 52.

¹⁴⁶ Document ID1 Section H reference 15, 37, 40 and 54.

¹⁴⁷ Document ID1 Section H reference 9, 19, 36, 38, 40, 41, 50, 52 and 55.

¹⁴⁸ Document ID1 Section H reference 20, 24, 36, 37, 40 and 41

7 Conclusions

- 7.1 Bearing in mind the submissions and representations I have reported, I have reached the following conclusions, reference being given in square brackets [] to earlier paragraphs where appropriate.
- 7.2 There are a number of considerations¹⁴⁹ to be addressed in reaching my recommendations, namely:
- Whether it is expedient to place any part of a cattle grid in, or provide a by-pass on, any land not forming part of a highway and not belonging to the highway authority;
 - Whether it is expedient to provide a by-pass along any part of a highway;
 - Whether the purpose for which a right to install gates is exercisable will be adequately achieved by the provision of a cattle grid.

Legal Submissions by Epping Forest Riders Association

- 7.3 Whether or not the proposals could not lawfully be executed as they would be contrary to section 7(1) of the Epping Forest Act 1878 is the case is clearly a matter of law, but the 2 legal opinions sought by CoL in 2006 on the lawfulness of fencing that was erected in 2002 are important considerations on this matter. These opinions have indicated that the CoL had acted lawfully in relation to the erection of fencing in 2002. **[3.1 to 3.8]**
- 7.4 There is no legal ruling that currently stands that would prevent the CoL from erecting the necessary fencing to ensure that the proposed cattle grids would be able to operate effectively. Whilst the CoL has accepted that the proposed cattle grids and by-passes would not be installed without the necessary additional fencing, it seems to me that the question of whether or not the erection of such fencing is lawful is not a matter to be considered in determining whether consent should be given.

Grazing Strategy

- 7.5 The proposed increase in grazing has been supported by the EFGS as being required for the future conservation and enhancement of Epping Forest's natural aspect and forms an integral part of the EFTS. This objective is in accordance with the Epping Forest Act 1878 and the protection of Epping Forest as a Site of Special Scientific Interest. Both the EFGS and EFTS have been legally adopted following consultation. **[1.2, 4.15, 4.36, 6.2]**
- 7.6 Whilst the proposed number of cattle to be used for grazing has been suggested as being insufficient on the area proposed to have any significant positive impact on the woodland pastures, this has not been substantiated by the evidence provided. There is very little evidence to demonstrate that a reduction in the proposed area of grazing would have any significant benefits over the area proposed. On this basis, I am satisfied that the proposed grazing strategy has been shown to be the most effective way of conserving

¹⁴⁹ Inspector's Note: At the inquiry I set out these considerations for the parties (see Document ID4).

and enhancing the Forest's important natural aspect. **[4.3, 4.4, 4.6, 4.7, 4.31 to 4.33, 6.3, 6.27 to 6.33]**

Cost

- 7.7 Funding has been made available for the provision and maintenance of the cattle grids and by-passes. I am satisfied that ECC would, under its current inspection and maintenance policies, ensure that they would be kept in good working order, including the by-pass gates. Furthermore, any damage would be able to be reported by giving telephone numbers on the gates, which could be secured under a condition. **[4.5, 4.8, 6.16]**

Alternatives

- 7.8 With regard to alternatives that have been proposed, whilst the cost of the grids and by-passes would be likely to be greater than providing 'invisible fencing' using buried wires under the road and attaching collars to the cattle, that technology is new to this Country. The costs given by EFRA regarding 'Boviguard' and the cattle grids and by-passes have not been substantiated. Therefore, limited weight can be placed on its comparison of the likely costs. **[4.8, 6.16]**
- 7.9 I have only been given evidence of the 'invisible fencing' being trialled across a road at one location, which is Catacombs Corner in Epping Forest. That trial was on a minor road with limited traffic and, although the end results have been determined as being successful, there were a number of 'teething problems' reported which resulted in cattle breaching the barrier. The consequences of a failure to retain the cattle within the trial grazing area would not have been as serious as at the proposed cattle grid locations. Should the cattle stray onto the A104 or A121 at these locations, the consequences could be serious due to the relatively high volume of fast moving traffic that has been shown by surveys to use these routes through Epping Forest. The cost of a traffic related accident due to cattle could be significant. **[4.26 to 4.29, 6.17 to 6.22]**
- 7.10 The suggestion by EFRA to delay the submission of this report until after submissions on a proposed report on the 'invisible fencing' trials have been considered is unacceptable. This would result in unnecessary delay and the conclusions in that report are likely to reflect those of Dr Dagley, which have been heard at the inquiry, as he is one of its authors. **[4.28, 6.23 to 6.24]**
- 7.11 The management of grazing by a herdsman has been shown by CoL to be unsuitable for the number of cattle proposed for grazing and the type and size of the proposed area to be grazed. Insufficient evidence on the viability of such a proposal has been provided to show that it would be a suitable alternative to the proposed cattle grids. **[4.30, 6.17]**

Accessibility

- 7.12 The heavy traffic on the A104 and A121 diminish access to non-motorised users through Epping Forest. Although fencing is proposed near to these roads in combination with the cattle grids and by-passes, the provision of this fencing is not a matter to be decided by the Secretary of State. However, the proposals are to provide gates within the fence on horse riding routes and 'squeeze gaps' at 20 metre intervals to enable access to be retained.

Furthermore, the CoL are proposing to use 'invisible fencing' in some areas to retain cattle. **[4.37 to 4.40, 6.5, 6.12]**

- 7.13 Surveys have shown that the places where the cattle grids would be located are not widely used by horse riders and I have been given limited evidence, other than from horse riders who have suggested that they use Wake Road, Cross Roads and Forest Side, to demonstrate that they are widely used. Furthermore, I have been given details of alternative routes that are available for use by horse riders wishing to avoid the by-pass gates. Whilst some of these routes would not be as suitable in the winter, ECC has indicated that it would be willing to ensure that by-pass gates would be left open during the winter months when cattle are not going to be grazing in the Forest. This could be secured by an appropriate condition. **[4.35, 5.1, 6.9 to 6.10]**
- 7.14 The surveys that have been undertaken by EFRA of its members are not related to the current proposals. Although a significant number of horse riders have objected, including a pony and trap driver, I am satisfied that the provision and proper maintenance of gates that are designed to the British Standard for easy access, two-way opening and slow closing with the option of retaining them open, would ensure that access would not be unacceptably restricted at the proposed locations of the by-passes and cattle grids. Furthermore, the evidence from the BHS, representing horse riders, and the BDS, representing horse and carriage drivers, indicates that the cattle grids and by-pass gates should not present a significant problem to accessibility by horses and horse drawn vehicles. **[4.21 to 4.23, 4.34, 6.2, 6.11]**
- 7.15 The gates that would be provided at the by-passes would be similar to that provided at Lincoln's Lane. Although a number of horse riders have complained about the use of this gate, most of these complaints appear to me to be due to it being damaged, not properly set up, or poorly maintained. At my site inspection, I observed that it was operating correctly and there is no reason why the by-pass gates should not be able to be properly maintained by ECC as the Highway Authority. **[4.9, 6.8]**

Safety

- 7.16 With regard to the cattle grids, they are to be designed to BS4008 and an appropriate condition would ensure that this is the case. Also, the proposed design would take account of Sustrans' recommendations for use by cyclists. As such, I am satisfied that their design would be acceptable for their safe use by all road users and that animals would be unlikely to be harmed as a result of their installation. Furthermore, there is no substantiated evidence to show that properly maintained cattle grids that are designed to the appropriate British Standard and Design Standard cause any significant harm to horses. Limited details have been provided regarding the circumstances of the records of horses being trapped in cattle grids, other than most of these grids have been privately owned and maintained. **[4.11 to 4.13, 6.6, 6.34]**
- 7.17 I have not been provided with sufficient details of any safety issues regarding the use of the proposed cattle grids by cyclists and motorcyclists to demonstrate that the safety of such users would be compromised by the proposals. Any perception of harm due to the cattle grids or grazing cattle is not supported by any evidence to carry significant weight, and familiarity of the presence of cattle, by-pass gates and cattle grids should reduce any perceived fear. **[4.21, 6.6, 6.34]**

- 7.18 In terms of noise, the cattle grids would be designed to minimise the amount of noise that would be made by vehicles crossing them. The evidence is inconclusive as to whether vehicles slow down as a result of a cattle grid, but they should act as a warning to motorists that they are entering an area in which cattle are likely to graze. Furthermore, the roads on which the proposed cattle grids would be located are subject to either 30 mph or 40 mph speed limits. As a result of the above, the risk of noise from the use of the cattle grids causing a problem with regard to startling a horse has been minimised. **[2.4 to 2.7, 4.11, 6.34]**

Other Matters

- 7.19 With regard to the effect on the character of Epping Forest, cattle grids, gates and the accompanying fencing and signing are already part of the Forest scene, and the proposals would be at appropriate locations and be kept to the minimum necessary. The other fencing that would probably be necessary to allow cattle to graze safely is not part of the proposals and should not be considered in relation to its effect on character, but it is likely to be mainly in secluded locations near to main roads where other similar fencing has already been installed. **[2.2, 4.8, 4.12, 4.38, 6.13 to 6.14, 6.29]**
- 7.20 Concerns about the effect of noise from vehicles using the cattle grids on the living conditions of local residents are not supported by the evidence. The cattle grids would be designed to minimise any resulting noise, would be located mainly on less heavily trafficked roads, and would be a sufficient distance away from any residential properties to ensure that noise from their use would not significantly add to the background noise from traffic on the nearby main roads. **[4.8, 4.11, 6.34]**
- 7.21 In terms of the level of consultation that has been carried out on the proposals, I am satisfied that ECC has complied with the statutory requirements and no evidence has been presented to show otherwise. Furthermore, sufficient evidence has been provided to demonstrate that rigorous consultation exercises have been carried out with regard to the EFGS and EFTS, including the provision of cattle grids. Therefore, I find that there has been an acceptable level of public consultation on the proposals. **[1.8, 4.36, 6.2]**

Overall Conclusions

- 7.22 For the above reasons, I have found that the proposed grazing of cattle on part of Epping Forest is important to achieve some of the objectives of the EFGS and EFTS, particularly those regarding the conservation of the Forest. The proposed installation of cattle grids is essential to the achievement of these objectives and there is no alternative that has been shown to be effective at controlling cattle near to main roads. The evidence indicates that the 4 cattle grids and by-passes would not have a material adverse effect on access within Epping Forest or present any significant additional safety hazard to users of the Forest. Therefore, I conclude that it is expedient to install the proposed 4 cattle grids and by-passes and the purposes for which a right to install gates is exercisable would be adequately achieved by the provision of the cattle grids.
- 7.23 Should the Secretary of State find in favour of the legal submissions by EFRA, I do not consider that it should affect the decision on whether consent should

be given for the cattle grids and by-passes, as the additional fencing is not part of the proposals and the need for all the fencing has not been established.

Conditions

- 7.24 Under paragraph 3(4)(b) of Schedule 10 of the 1980 Act, the consent can be given subject to compliance with conditions. In this respect, ECC submitted at the inquiry 8 suggested conditions that have been agreed with EFRA¹⁵⁰. I have used these conditions as a basis for my proposed conditions if consent is given.
- 7.25 A condition requiring the cattle grids to comply with the relevant British Standard and that they are properly maintained should ensure their safety in respect of people, animals and vehicles. Conditions regarding the design, signing and maintenance of the by-pass gates and the design and maintenance of their handles should ensure that they would be acceptable to all potential users, including the disabled, horse riders and horse and carriage drivers.
[4.23, 4.34]
- 7.26 A condition to ensure that the gates can be kept open should improve access for horse and carriages. It would also be expedient in that it would allow the gates to be locked open during the times of year that cattle are not grazing, giving easier access along the paved roads to users of the Forest when some of the other means of access are less useable due to weather conditions. A condition requiring the provision of mounting blocks would enable horse riders to dismount and remount should they need to do so at the by-pass gates. Together with a condition that ensures that an adequate length of fencing is provided to separate the by-pass from the grids, it should help to address the safety concerns of horse riders.
- 7.27 A suggested condition regarding the priority that should be given to any malfunction of the operation of the cattle grids or by-passes is imprecise and would be difficult to enforce. I am satisfied that the above conditions, together with ECC's inspection and maintenance policies, would be sufficient to ensure that the cattle grids and by-passes would operate safely.

8 Recommendation

I recommend that:

- 8.1 Consent is given for the installation of cattle grids and by-passes within Epping Forest at Wake Road, Cross Roads, Rangers Road and Forest Side at the locations detailed on the public notices and accompanying Drawing Nos CP0066\D\7\100\101A, CP0066\D\5\100\101A, CP0066\D\4\100\101B and CP0066\D\1\100\101C, subject to the conditions set out in Appendix D.

M J Whitehead

INSPECTOR

¹⁵⁰ Document ID5.

APPENDICES**APPENDIX A APPEARANCES****FOR ESSEX COUNTY COUNCIL:**

Mr Ryan S Kohli	Of Counsel, instructed by Mr Curtis, Principal Barrister, Essex Legal Services, Essex County Council
He called	
Ms Mary Young BSc(Hons) MCIHT	Transport Planner, Mouchel
Mr Paul A Thomson BSc(Hons) DipLTMan	Superintendent, Conservators of Epping Forest, Epping Forest Open Spaces Department, City of London Corporation
Dr Jeremy R Dagley MA(Hons)	Conservation Manager, Conservators of Epping Forest
Mr Gordon Wyatt BSc(Hons)	Lead Adviser, Land Use Operations Team, Natural England
Mr Jonathan Gerrelli	Head Agister of the New Forest
Mr Russel Glyn Withers CEng EE FICE FCIHE	Senior Engineer, Mouchel
Mr David Paul Sprunt IEng MCIHT FIHE	Principal Transportation Coordinator, Essex County Council

FOR THE OBJECTORS:***EPPING FOREST RIDERS ASSOCIATION:***

Mr Ned Westaway	Of Counsel, instructed by Ms Sue Willman, Pierce Glynn Solicitors
He called	
Mr Ronald King	Secretary, Epping Forest Riders Association
Mr Adrian Liddle	Ex-Chair, Epping Forest Riders Association
Ms Rosemary Johnson	Pony and Trap Driver
Mrs Follie Bovis	Horse Rider and Livery Yard owner
Ms Carol Pummell	Horse Rider from Stables at Woodredon and Member, Epping Forest Riders Association
Mrs Lyn Godwin	Horse Rider from Livery Yard in Church Road
Mrs Mia Mostafa	Daughter is horse rider from Stables at Buckhurst Hill and Member, Epping Forest Riders Association
Mr Neil Vyner	Horse Rider from Stables at Woodredon and Member, Epping Forest Riders Association

THE FRIENDS OF EPPING FOREST:

Ms Judy Adams BSc MSc MIEEM	Chairman, The Friends of Epping Forest
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APPENDIX B DOCUMENTS**Inquiry Documents**

- ID1 Inspector's Dossier from DfT National Transport Casework Team.
 ID2 Correspondence regarding the venues and times for inspection of documents.
 ID3 Attendance Lists for Days 1, 2 and 3.
 ID4 Inspector's Note of Considerations.
 ID5 Suggested Conditions agreed between Essex County Council and Epping Forest Riders Association.

Essex County Council Documents***Core Documents***

- ECC1 Epping Forest Grazing Rationale & Strategy.
 ECC2 Epping Forest Transport Strategy proposals 2009-2016.
 ECC3 Chronology.
 ECC4 Map of the Indicative Locations of Cattle Grids Drg No CP0066/D/100/104.
 ECC5 Epping Forest Act 1878.
 ECC6 Essex Naturalist (New Series) 16 (1999): Heathland restoration at Long Running, Epping Forest.
 ECC7 Essex Naturalist (New Series) 25 (2008): Conservation & Management.
 ECC8 Epping Forest & Open Spaces Committee Report January 1999.
 ECC9 Open Spaces Society: The Case for Cattle Grids on Commons, November 2008.
 ECC10 ADAS Report on risks associated with an increased number of cattle free roaming Epping Forest and their interaction with the public, September 2010.
 ECC11 Commons Vision: Brief report on the location of proposed cattle grids, equestrian access and cattle, Epping Forest.
 ECC12 Epping Forest & Commons Committee Report November 2010.
 ECC13 Epping Forest: The Official Map.
 ECC14 The British Horse Society Strategy and Correspondence 2008.
 ECC15 The British Horse Society Correspondence 2009.
 ECC16 Essex Transport Strategy: the Local Transport Plan for Essex, June 2011.
 ECC17 The Essex Traffic Management Strategy March 2005.
 ECC18 Epping Forest Transport Strategy: Highway Cattle Grid Options Report.

Further Documents

- ECC19 Public Notices of the 'Intention to Install a Cattle Grid'.
 ECC20 Map: Indicative Locations of Cattle Grid Sites Drg No CP0066/P/100/142.
 ECC21 Map: General Arrangement Honey Lane/Claypit Hill Cattle Grid Drg No CP0066\D\1\100\101C.
 ECC22 Drawing: Heavy Duty Steel Highway Grid Drg No CP0066\D\1\700\701A.
 ECC23 Map: General Arrangement Rangers Road Cattle Grid Drg No CP0066\D\4\100\101B.
 ECC24 Map: General Arrangement Cross Roads Cattle Grid Drg No CP0066\D\5\100\101A.
 ECC25 Map: General Arrangement Wake Road Cattle Grid Drg No CP0066\D\7\100\101A.
 ECC26 Statement of Reasons in Support of the Epping Forest Transport Strategy.

Statements and Proofs of Evidence

- ECC27 Statement of Case on behalf of Essex County Council.
 ECC28 Summary Proof of Evidence of Mr Paul A Thomson.
 ECC29 Proof of Evidence of Mr Paul A Thomson.

- ECC30 Summary Proof of Evidence of Dr Jeremy R Dagley.
ECC31 Proof of Evidence of Dr Jeremy R Dagley.
ECC31A Amended Figs 4, 5, 6 and 7 to Proof of Evidence of Dr Jeremy R Dagley.
ECC31B Supplementary Proof of Evidence of Dr Jeremy R Dagley.
ECC31C Fig 5A to Proof of Evidence of Dr Jeremy R Dagley: Tier 1 Cattle Grid Locations with Stables.
ECC32 Summary of Proof of Evidence of Gordon Wyatt.
ECC33 Proof of Evidence of Gordon Wyatt.
ECC34 Appendices to Proof of Evidence of Gordon Wyatt.
ECC35 Executive Summary, Proof of Evidence and Appendices of Mr Russel Glyn Withers.
ECC35A Corrected Proof of Evidence and Appendices of Mr Russel Glyn Withers.
ECC36 Executive Summary, Proof of Evidence and Appendices of Mary Young.
ECC37 Proof of Evidence of David Paul Sprunt.
ECC38 Proof of Evidence of Jonathan Gerrelli.
ECC39 Opening Statement on behalf of Essex County Council.
ECC40 Closing Statement on behalf of Essex County Council.
Additional Documents
ECC41 Confirmation of public notices of inquiry.
ECC42 Epping Forest Branching Out Project document.
ECC43 Defra document: Authorising structures (gaps, gates & stiles) on rights of way; Good practice guidance for local authorities on compliance with the Equality Act 2010.

Objector's Documents***Epping Forest Riders Association***

- EFRA1 Statement of Case of Epping Forest Riders Association.
EFRA2 Witness Statement of Ronald King.
EFRA2A Signed Witness Statement of Ronald King.
EFRA3 Appendix to Witness Statement of Ronald King.
EFRA4 Witness Statement of Adrian Liddle.
EFRA4A Signed Witness Statement of Adrian Liddle.
EFRA5 Outline Witness Statement of Rosemary Johnson.
EFRA6 Supporting Documents of Epping Forest Riders Association.
EFRA7 Letter from the British Horse Society, dated 3 November (2011).
EFRA8 Opening Statement on behalf of Epping Forest Riders Association.
EFRA9 Copy of High Beach Parish Council News letter, dated November 2011.
EFRA10 Written Statement of Lance Renetzke, Chairman of Epping Forest Riders Association.
EFRA11 Larger copy of plan of Cattle Grid Locations with Stables.
EFRA12 Closing Submissions on behalf of Epping Forest Riders Association.
The Friends of Epping Forest
FEF1 Statement of Case by Judy Adams on behalf of the Friends of Epping Forest.
FEF2 Closing Statement by Judy Adams on behalf of the Friends of Epping Forest.

APPENDIX C ABBREVIATIONS

BHS	British Horse Society
CoL	City of London Corporation as the Conservators of Epping Forest
Defra	Department for Environment Food and Rural Affairs
DfT	Department for Transport
ECC	Essex County Council as the Highway Authority
EFGS	Epping Forest Grazing Rationale & Strategy, June 2006 (updated November 2008), City of London Corporation
EFRA	Epping Forest Riders Association
EFTS	Epping Forest Transport Strategy proposals 2009-2016, City of London Corporation and Essex County Council
et al	and others
FEF	Friends of Epping Forest
Fig	Figure
HFRS	Hampshire Fire and Rescue Service
km	kilometres
NE	Natural England
para	paragraph
SSSI	Site of Special Scientific Interest
1878 Act	Epping Forest Act 1978
1980 Act	Highways Act 1980

APPENDIX D CONDITIONS

- 1) The cattle grids shall comply with British Standard BS4008 and shall be maintained in accordance with the manufacturer's instructions.
- 2) The by-pass gates shall be two-way opening and self closing and shall comply with British Standard BS5709. They shall have signs attached to them that warn that they are self-closing and give telephone numbers to contact in the event that they are damaged or do not operate properly. The signs shall be retained as such thereafter and the gates shall be maintained in accordance with the manufacturer's instructions.
- 3) The handles on the by-pass gates shall have separate lower grips for use by those that are mobility impaired. The handles shall be retained as such thereafter and maintained in accordance with the manufacturer's instructions.
- 4) A retaining device shall be installed on both sides of the by-pass gates to allow them to be fixed open and shall be retained thereafter. The gates shall be locked open during the times of year when no cattle are grazing on Epping Forest.
- 5) Mounting blocks shall be installed at the side of the by-pass on both sides of the gates. The mounting blocks shall be retained thereafter.
- 6) Fencing shall be provided between the by-pass and cattle grid for a minimum of 2.5 metres from the edge of the grid on both sides. The fencing shall be retained as such thereafter.