

IN THE MATTER OF THE PUBLIC INQUIRY PURSUANT TO THE NETWORK RAIL  
APPLICATION FOR AN ORDER UNDER THE TRANSPORT AND WORKS ACT  
1992

THE NETWORK RAIL (ESSEX AND OTHERS LEVEL CROSSING REDUCTION)  
ORDER 20XX

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CLOSING SUBMISSIONS  
ESSEX COUNTY COUNCIL

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**Introduction**

1. This Inquiry arises from Network Rail's (NR) application pursuant to section 6 of the Transport and Works Act 1992 (the 1992 Act) for an Order under section 1 and 5 of that Act to close 42 level crossings.
2. The Order seeks to provide NR with an array of statutory powers associated with closure including powers to remove crossings, to stop-up and divert Public Rights of Way (PROW), to create new rights of way in pursuance of a suitable and convenient alternative route, to compulsorily acquire interests in land to enable the completion of works, as well as deemed planning permission where necessary.
3. Essex County Council (ECC) respond to this Inquiry as a statutory objector<sup>1</sup>. ECC are the relevant Highway Authority in relation to the highway networks (including PROW) that will be affected by the Order. The Highway Authority are responsible for the highway and PROW network and are under a statutory duty<sup>2</sup> to assert and protect the rights of the public to the use and enjoyment of any highway for which they are the highway authority. In addition, they are responsible<sup>3</sup> for keeping up to the date the definitive map and statement representing PROW across the county.
4. From the 42 crossings presented for closure in the Order, ECC has maintained an objection to the following 7:
  - i. E30 Ferry

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<sup>1</sup> Defined by rule 2(1) of the Transport and Works (Inquiries Procedure) Rules 2004 and section 11(4) of the 1992 Act

<sup>2</sup> Section 130 Highways Act 1980

<sup>3</sup> Section 53 Wildlife and Countryside Act 1991

- ii. E31 Brickyard
- iii. E38 Battlesbridge
- iv. E43 High Elm
- v. E48 Wheatsheaf
- vi. E51 Thornfield Wood
- vii. E52 Golden Square

5. These closing submissions are structured as follows:

- a. ECC's position on NR's strategic case
- b. ECC use of 'Walked Routes to Schools'
- c. Discussion of individual crossings
- d. Conclusion

If submissions relating to planning conditions or order modifications arise subsequent to the delivery of this closing statement, an addendum will follow.

#### **A. ECC's position on NR's Strategic Case**

6. In support of the Order, NR have presented to the Inspector and the Secretary of State a strategic case of justification. This is based on the following 3 principles:

- a. Operational efficiency of the network;
- b. Safety of rail users and those interacting with the railway; and
- c. Efficient use of public funds.

7. ECC do not object in principle to the Order and do not make submissions about whether or not the Transport and Works Act 1992 route is the right process NR should be following to achieve its aims. However, ECC have explored during the Inquiry whether the Strategic Case presented by NR is applicable to the specific crossings to which ECC object.

#### **Operational Efficiency**

8. The Inquiry heard from Dr Eliane Algaard, Director Route Safety and Asset Management for Network Rail, that this project was an enabler to build improved resilience in the rail network and that level crossing closure lowered costs for the future which would make upgrading the remaining crossings easier. Dr Algaard went on to explain that where the crossings are reduced the "business case for Anglia is good as the number of level crossings to update is smaller and there is a better opportunity to secure economic growth". "When I look at my network there is a system of assets, removal of level crossings intrinsically improves the reliability of my network. I will in the future deliver more trains". Dr Algaard also stated that closure of level crossings would reduce the 'ripple effect' explaining that "an incident in Anglia could affect Scotland".

9. Network Rail's Client Requirement Document (CRD) presented to the Inquiry as NR18 provided information on several Anglia Route enhancement schemes to increase capacity, speed and length of trains across the network. The document itself states that "level crossings are a limiting factor in some or all of these schemes and there needs to be a holistic approach to the management of level crossings".
10. On the face of it Network Rail make a strong case for level crossing closure to improve operational efficiency, Dr Alastair Southgate, Transport Strategy Manager for Essex County Council, informed the Inquiry that he was directly involved in several of the projects listed in the CRD (document NR18), he later said in cross examination that he accepts that closure of level crossings in a coherent project, or 'package' achieve improvements to service or line speed is justified, and that closure linked to these projects "makes sense".
11. However, Dr Southgate went on to say that the crossings to which ECC object, do not form part of any project listed in the CRD, and during the course of the Inquiry, Network Rail were not able to provide details of any enhancements or improvements that directly involved the crossings to which ECC objects.
12. Mr Andrew Kenning, Senior Project Engineer for Network Rail, in the course of crossing specific evidence have more information on the 'ripple effect', whilst he was able to provide a detailed examples of this concept, he was not able to provide any examples of the 'ripple effect' arising directly from any of the 7 crossings to which ECC object.
13. It is clear that imminent closure of these 7 crossings will not give rise to increased line speeds, it will not give rise to an increase in the number of trains on these lines, and it will not have a quantifiable effect to reduce delays caused by the 'ripple effect'
14. ECC submit that, in respect of the 7 crossings to which it objects, NR's case for operational efficiency is not applicable.

## **Risk**

15. Mr Mark Brunnen's, Head of Level Crossing Safety, Technical and Engineering for Network Rail evidence introduced the All Level Crossing Risk Model (ALCRM) to the Inquiry, this was explained as a "complex risk calculation model used to assess quantitative risk at level crossings consistently and accurately" in his Statement of Proof, Mr Brunnen continued by explaining that ALCRM "is recognised by the ORR as the level crossing risk ranking tool for all level crossings under NR's management and is acknowledged to provide a good overview of risk priorities."
16. NR present document NR14, The Office of Road and Rail Strategy (ORR) document on Regulation of Health and Safety Risks – 4: Level Crossings, the document outlines

regulation and management of level crossings and states that it encourages crossing closure. It promotes consideration of closure first in line with the principles of prevention and prioritising those crossings that present the highest risk.

17. Mr Daniel Fisk, Route Level Crossing Manager for Network Rail, brought evidence of the ALCRM score for each crossing included in the Order and explained that ALCRM scores are presented on an alphabetical and numeric scale to represent individual and collective risk of fatality. Mr Fisk's Statement of Proof explains that the first is expressed as a letter, where A is the highest risk, and M is the lower, although M is only used where the crossing is closed. The collective risk is expressed as a number where 1 is the highest risk and 13 is the lowest.

18. The scores for the crossings to which ECC objects are as below:

<b>Crossing</b>	<b>ALCRM</b>
E30 Ferry	M13 previously C2
E31 Brickyard	M13 previously C4
E38 Battlesbridge	D11
E43 High Elm	C7
E48 Wheatsheaf	D7
E51 Thornfield Wood	D11
E52 Golden Square	D10

19. In reference to the ORR document and in consideration of b) in NR's strategic case, ECC submits that these crossings are not those that present the highest risk.

20. Mr Brunnen also discusses in detail risks arising from familiarity and distraction by users of the railway. ECC does not contend that these risks are apparent on the railway however in closing these level crossings NR are, in each of the crossings to which ECC object, diverting pedestrians to use an existing vehicular highway where Mr Brunnen recognised these risks also exist. The parties acknowledged that a mechanism to compare risks on road with the risks on the railway does not exist, however in her evidence Miss Susan Tilbrook, Project Director for Mott Macdonald, agreed that it was reasonable to conclude that an increase in 'traffic' (which is a term to include pedestrians and vehicles) would result in an increase in risk of conflict.

21. Mr Will Cubbin, Road Safety Strategy Analyst for ECC, stated that there were 185 fatalities on the highway during the five year period between 2013 and 2018. In para 25 of NR's statement of case, (document NR26), it is shown that there were 8 deaths in four years. Even where there is no risk comparator, it is a statistical fact that there are more deaths on the road than on the railway and the logical conclusion being drawn is that the statistical risk to life is greater on the road.

22. In addition, Mr Cubbin's evidence concluded that "B and C classified roads have the highest severity ratio" and that "A roads have the greatest number of killed or seriously injured per kilometre of road". Lastly, Mr Cubbin's evidence is that "unclassified roads account for the greatest number of casualties". During his evidence in chief, Mr Cubbin advised the Inquiry of the classification of roads to which ECC objected, these are contained in the table below:

<b>Crossing</b>	<b>Classification</b>
E30/E31	B in part and then unclassified
E38	A
E43	B
E48	Unclassified
E51	Unclassified
E52	Unclassified

23. In consideration that these are not the highest risk crossings and that the roads to which the routes are diverted are statistically known for the collisions patterns specified in para 21 above, ECC submit that the elimination of risk on the railway is disproportionate to the transfer of that risk to the road where familiarity and distraction are also present and ultimately the risk of conflict with the individual user is greater.

### **Use of Public Money**

24. The final limb of NR's strategic case addresses use of public funds. This point was addressed by both Dr Algaard and Mr Brunnen, both considered that the use of the order was affective use of public funds. They submitted that the elimination of a level crossing would create a saving in maintenance burden and Dr Algaard explained that this saving could then be used for other purposes, such as installation of technology on remaining crossings. On further questioning about savings Dr Algaard produced an additional note, NR126 that projected a total cost saving of £ 25,056,760 over a 30 year period for all level crossings in the order.
25. In cross examination Dr Algaard was clear that she wanted to 'close all level crossings' and went on to say "if I provide an alternative route and closing the level crossing offered operational savings, then I can reassure myself that its good use of the public purse".
26. In the Statement of Proof by Mr Fisk for NR, there includes a statement of options for eliminating, reducing, mitigating or managing risk at each level crossing. These options included a Cost Benefit Analysis calculation. The Inquiry learned that a figure of £5000 had been applied to every crossing to cover the associated costs for the 'closure' option for the purposes of undertaking CBA. Throughout the course of the

Inquiry it became clear that this arbitrary sum in some circumstances would be incorrect and would have a significant effect of the CBA score. For example, at E38 Battlesbridge the proposal of a new Vehicle Restraint System alone would likely exceed this estimation, let alone the costs associated with the installation of steps, and removal of crossing point material.

27. In Dr Algaards cross examination she discussed her consideration of the CBA score and noted that in considering the CBA “if the cost of the diversionary route costs more than [she] would not proceed with the route”. If this was the case, then ECC submit that on that basis alone the proposal at E38 should not be progressed.
28. NR submitted to the Inquiry document NR07, an estimate of costs associated with the implementation of this order. The estimate of costs in that document, dated 3<sup>rd</sup> quarter 2016 were £4,887,584. In reality, this public inquiry has lasted far longer than anticipated and the cost to Network Rail is likely to be higher than the sum stated in that document.
29. In consideration of savings to be made by closure of these crossings, the financial information provided by Mr Cubbin should be considered. As explained above, NR accepts that an increase in traffic on the road network is reasonably considered to increase the risk of conflict, Mr Cubbin’s evidence is that the cost to the public purse for dealing with a single serious collision is £116,000. The number of collisions occurring in the future as a result of people using these diversionary routes cannot be known and it is therefore not possible to assess the human, or financial cost relating to these diversions.
30. It is ECC’s submission that the Inquiry has not been provided with specific financial data relating to each particular crossing and the true costs of this application are not know. The Inspector and the Secretary of State simply do not have the information to assess whether closure of the crossings to which ECC objects present a good use of public money. A saving by one public purse is not a saving if it transfers the costs from one public body to another.
31. In conclusion of these submissions on NR’s Strategic Case, and in specific reference to those crossings to which ECC object, ECC submit an improvement in operational efficiency is not achieved by closing these crossings, that the relatively low risks associated with these crossings do not justify closure particularly in consideration of the transference of the route to the highway, and therefore the only justification available for proper consideration by the Inspector and the Secretary of State is whether the closures represent a good use of public funds, and in making that consideration they are equipped with generalised arbitrary figures. In any event ECC submit that financial savings alone do not justify closing these 7 crossings, once these crossings are legally closed, they are gone forever.

## **B. ECC's use of 'Walked Routes to Schools'**

32. ECC's Road Safety Assessment carried out by Mr Lawrence Seager and Mr Ross Corybn, both qualified Road Safety Auditors, departed from using Design Manual for Roads and Bridges HD19/15 and instead made use of Road Safety GB Walked Routes to Schools guidance. It was the opinion of the auditors, and given in evidence by Mr Corbyn, that there was not enough information available to allow them to complete a stage 1 Road Safety Audit under HD19/15. It was clarified that the reason for this was a combination of too little material supplied by Network Rail and in part due to not information supplied by the internal instructing department.
33. In any event, Mr Corbyn in evidence further explained that this guidance was used to undertake these assessments because a tool for assessing Public Right of Way walking routes does not exist and in Mr Corbyn's view, the Road Safety GB guidance offered a fair way to approach the assessment. A distinction is made between assessment and audit.
34. It is to be taken note that in relation to vehicular highway, the proper *audit* tool is HD19/15 and ECC submits that future Road Safety Audit's relating to relevant highways will be expected to comply with the criteria in that document.
35. ECC is content for references to the Walked Routes for School Guidance generally, but had not intended for it to be heavily relied upon in substitution for the HD19/15 where HD19/15 is the appropriate tool.

## **C. Discussion of individual crossings**

36. In proposing to close these level crossings, NR is required to satisfy the Secretary of State:<sup>4</sup>
- (a) that an alternative right of way has been or will be provided, or
  - (b) that the provision of an alternative right of way is not required

It is accepted between the parties that this statutory test should be read alongside the DFT guidance 'A Guide to TWA procedures' (June 2006), it states<sup>5</sup> that: "If 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."

37. NR have submitted to the Inquiry document NR135 ('the note'), this is a statement by ECC, Ramblers Association and NR as to their respective positions on the interpretation of the meaning of 'suitable and convenient'. The note sufficiently sets out ECC's position on interpretation and the position is not repeated here. In particular

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<sup>4</sup> Section 5(6) TWA1992

<sup>5</sup> Annex 2, at page 105

the note at para 8 sets out the factors that the parties agree<sup>6</sup> are relevant in considering whether a route is suitable and convenient. Therefore references below to 'suitable and convenient' are to be taken to be within the context of NR135.

38. In discussing the crossings below, the substantive details relating to the crossing proposals are not repeated from earlier submitted evidence, instead the material points relating to each crossing explored during the Inquiry are considered. In particular in relation to the general theme throughout the Inquiry that NR provided more detail relating to the diversionary route proposals in chief evidence than the parties had been provided before the Inquiry opened.
39. ECC maintain reliance on its Statement of Proofs already submitted, save for the concessions or withdrawal of objections detailed in this closing, and in note to the Inspector dated 26 September 2018.

### **E30 and E31**

40. These crossings were considered together during the Inquiry due to their physical proximity on the ground. ECC's position at the opening of the Inquiry was that due to the close proximity of the crossings, it would not object to both closures if one crossing were to remain open.
41. The main issues explored in the Inquiry were the inconvenience created by the 'dog leg' alternative route, the feasibility of achieving the fenced walkway through the car park, and the safety risks presented by diverting people on to the highway.
42. At the outset it was NR's case that the route was suitable, and that the additional length added was not inconvenient. Miss Tilbrook discussed the uses of the crossing that were considered in reaching the alternative route proposal and it was clear that this interpretation was largely based on the use of longer leisure walks.
43. In cross examination by ECC Miss Tilbrook accepted that Hadleigh Castle Country Park to one side of the crossings and Local Marina to the other side of the crossings were reasonable destinations for users. Both destinations being in relative close proximity to the crossings. It was agreed that those users most affected by the 'dog leg' created by the diversion would be those partaking in these shorter leisure walks. The dog leg being contrary to the desire line of users, and requiring users to double back on their route to reach their destinations. It had been established that an additional 24 or 14 minutes would be added to journey times and that this would have a greater impact on vulnerable users. In cross examination by ECC, Miss Tilbrook agreed that the proposed route was more inconvenient but corrected in re-examination that this did not mean that her opinion on suitable and convenient was

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<sup>6</sup> Save for the qualifications made by NR in para 9 of that note



affected. Mr Kenning also accepted that walkers from Canvey to the Country Park were inconvenienced by the route, particularly if travelling to a certain area of the park. In re-examination, Mr Kenning corrected that this did not mean that he thought the route proposed was not 'suitable and convenient'.

44. Part of the alternative route requires users to traverse through the railway station car park, NR intended to segregate users by incorporation of a fence. Initially ECC Road Safety Assessment (RSA) was concerned about insufficient mitigation for the risk of conflict between people and vehicles. However, details were provided during chief evidence by NR that had not previously been known. The information about the specification and the exact location of the footpath satisfied ECC that the footpath could effectively be provided as more railway land was intended to be utilised than land from the carpark. However, a question remained as to whether the inevitable reconfiguration of the car park could be achieved.
45. The final issue, also related to Road Safety, primarily concerned the vegetation present along Ferry Road. The proposal takes users through a short section with no footway and a high verge. Miss Tilbrook suggested that this could be dealt with by increased maintenance; however ECC's position was that the issue at this location required more than cutting. Miss Tilbrook accepted this, relying on resolution through detailed design.
46. In sum, whilst ECC are grateful for the additional detail about the fences footway through the car park, and assurances that the verge issue can be revisited in detailed design. ECC submits that the only conclusion at this location is that the 'dog leg' created by this proposal is inconvenient for those undertaking shorter walks. This was also accepted by Mr Kenning and Miss Tilbrook. In respect of the note on suitable and convenient, the route is not direct, it does not maintain desire lines, and is considerably longer than the current crossing with an additional 600 meters added to the length.
47. ECC had indicated that it would prefer for Brickyard Farm to remain open and in that instance, ECC would be content for Ferry to close. In the re-examination of Mr Kenning, it became apparent that the configuration of the fencing required for the footpath would impact the sighting for Brickyard Farm such that if Ferry were to be closed and the fence provided, Brickyard Farm could not remain.
48. In light of this, ECC's original position supporting closure of one crossing, where one crossing remains open cannot be sustained, and ECC must therefore object to the closure of both crossings.

## **E38 Battlesbridge**

49. Notwithstanding the evidence submitted by ECC already, the particular issues between the parties during the Inquiry relate to Road Safety associated with the diversionary route taking users along the A1245; and the inconvenience presented by the need to ascend a steep embankment to get there.
50. The A1245 is an incredibly busy road with two way traffic flow of 17502 vehicles a day according to NR's ATC data. In comparison, Mr Kenning confirmed in cross examination by ECC that at the crossing there were 3 trains in 2 hours. Mr Kenning proffered an acceptance that there were a lot more vehicles, but went on to say that "I could sit on that bridge with a deckchair and I'd feel safe, but I did that by the railway I would get hit". The following day, in cross examination, Miss Tilbrook accepted that Mr Kenning could get hit in his deckchair at the side of the road due to the possibility for vehicles coming of the road.
51. Miss Tilbrook agreed with ECC that this possibility is the reason the Vehicle Restraint System (VRS) was present along the side of the bridge and that the feasibility of amending the VRS to allow a gap for access to users was fundamental to implementation of this route. Significant technical discussions were aired during the inquiry in relation to the VRS. Put simply, to enable a gap for pedestrians there needs to be two rows of barrier that overlap. The Design Manual for Roads and Bridges document TD19/06 specifies, among other things, mechanisms for calculating the width of the gap, known as the working width, and the length of overlap. Mr Corbyn for ECC advocated, supported by TD10/06<sup>7</sup> that pedestrians (referred to in the document as non-motorised users 'NMUs') should be located beyond the working width of the safety barrier. Mr Corbyn was not able to conclude whether or not the required width could be achieved, particularly in the knowledge of physical site constraints created by the utilities and the finite space by virtue of the bridge structure.
52. In cross examination, Miss Tilbrook agreed that these issues had not been bottomed out, and that they would be for detailed design stage. ECC submit that whilst these matters can be dealt with in detailed design, it is so fundamental to the feasibility of this route that this level of detail could have, and should have been completed already. The Inspector and the Secretary of State do not have information about whether or not the necessary amendments to the VRS can be achieved.
53. In addition, if the VRS *could* be achieved the situation remains that pedestrians would be diverted along a 60mph road, not designed to facilitate road users. Users of vehicles are not expecting to see pedestrians at the road side, and pedestrians will be in an environment not designed to be used by them. Mr Robert Lee, Public Rights of Way and Records Analyst for ECC, gave evidence that he would not feel safe negotiating the route.

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<sup>7</sup> Page 3/7, para 3.39

54. To reach the road bridge, users would be required to ascend and descend an embankment. During the course of the inquiry it was made known that there would be no less than 60 steps to negotiate as part of this diversion. Mr Lee for ECC gave evidence that on hearing this news, his “jaw dropped” as this number of steps was never in his contemplation. Mr Lee’s evidence was that the original route was relatively flat ground and far more accessible than the alternative.
55. In cross examination, Miss Tilbrook accepted that this number of steps was more effort than the existing route.
56. In sum, ECC submit that this route is not suitable and convenient, with regards to paragraph 8 of the note<sup>8</sup>, the route is not safe nor accessible and in respect of the OED definitions provided in para 4, this route cannot be convenient in that it clearly involves more than a little trouble or effort to negotiate.

### **E43 High Elm**

57. The issues before the Inquiry in relation to High Elm were reduced following a joint site visit by ECC and Mott MacDonald. The purpose of the visit was to assess whether the pedestrian crossing islands proposed by NR to mitigate the risk of conflict between pedestrians and vehicles crossing the busy road could be achieved within the order limits. The outcome of the meeting concluded that the proposal would mitigate the risks, and could be achieved within the order limits.
58. Notwithstanding the issues raised by Proofs from ECC at the start of the Inquiry, the other substantial issue explored at this location was the effect closure had on local use. In evidence, Miss Tilbrook had considered the use of the crossing in the context of longer leisure walks, but in cross accepted that local circular walking for dog walking, or other leisure is a likely use of this crossing and acknowledged that some people prefer a walk with a sense of “going somewhere”. In consideration of that use, Miss Tilbrook acknowledged closure had a greater effect on those users. In addition, Mr Kenning in cross examination also accepted that the properties to the South East, in the region of the location of the Kennels, are most affected by the diversion. In response to the consultation, 75% of the responses disagreed with the proposals<sup>9</sup>.
59. Mr Lee’s evidence was that the current route provided “lovely woodland walks” for local people, but also creates wider access to Frating and Thorrington. The proposals would see a dead end created to footpath 5 and frustrate the current connectivity, although the retention of access to Tenpenny Woods is welcomed.

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<sup>8</sup> NR135

<sup>9</sup> Page 284 second round of consultation, appendix tab 2 to Miss Tilbrook’s evidence

60. ECC submit that alternative proposal here is not suitable and convenient, for those undertaking circular walks the route is not suitable within the OED definition in para 4 of the note<sup>10</sup> as the route is not appropriate for that particular purpose. In addition, the route is not convenient as it does not fit with a person's needs or activities if those activities are circular dog walks through Tenpenny Woods.

#### **E48 Wheatsheaf**

61. The particular issues explored in the Inquiry relating to this crossing were the poor visibility at the double bend on 'Dimbolls Hall Lane'; the loss of the natural amenity including Brakey Grove Wood, and the loss of North West connectivity.

62. It was presented by Mr Lee that the value the existing crossing provides is a natural woodland and field connectivity in a north west desire line providing access to the Wrabness nature reserve. In cross examination, Miss Tilboork accepted that the proposed route provides east west connectivity and is predominantly field and road walking characterised by dwellings and obstructed views.

63. Miss Tilbrook accepted that depending on a person's origin, and in particular if travelling from the south, the route creates a doubling back that is less convenient. Although later corrected that this did not mean that she thought the route was not suitable and convenient.

64. It is the evidence of Mr Lee that the alternative route is unlikely to be used as it takes users a significant way in the wrong direction and requires negotiation of the bends at Dimboll's Lane. The bends are narrow and are flanked on both sides by raised undulating banks with overgrown vegetation. Mr Lee stated that he did not feel safe using the alternative route.

65. Mr Seager gave evidence for ECC that he was concerned that the verge banks were too high, that pedestrians cannot step off the carriageway and that neither cars nor pedestrians had adequate visibility, particularly in reference to the fact that walkers should walk in facing the direction of oncoming traffic.

66. Miss Tilbrook accepted that walkers should walk facing the direction of oncoming traffic and that this was not possible due to the physical obstruction presented by the 'verges'. Miss Tilbrook's first response to this issue was that it related to the current maintenance, however later accepted after being taken to photographs in Mr Lee's evidence<sup>11</sup> that the problem at this location would require more than maintenance. Mr Seager in cross examination welcomed the suggestion of re-profiling the banks. ECC

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<sup>10</sup> NR135

<sup>11</sup> Appendix 2 page 102

submit that this consideration had not yet factored into NR's proposals therefore the feasibility and costs of this additional work are not known.

67. ECC were particularly concerned with the loss of amenity at this location, NR proposed that it would not object if the Inspector and Secretary of State were to decide to retain Brakey Grove Wood. NR submit that this would not affect their route proposal, and in the event that this route remains in the Order this would be welcomed by ECC.
68. ECC submit that the alternative is not suitable within the definition of para 4 of the note<sup>12</sup> as the route is not right or appropriate for the purpose served to users by the existing route, the alternative takes walkers in a different direction along a route of a completely different character. Neither is the route convenient as it does not fit well with the user's plans to travel easily in a north west direction to local destinations such as the Nature Reserve.
69. In addition, in regard to para 8 of the note, the length of the route is a particular deterrent for use, the route does not feel safe for users, and the double bend is not in fact safe in its current typography, the route is not direct, and it does not maintain desire lines to destinations. It is ECC's submissions that the proposed alternative route is not suitable and convenient.

## **E51 and E52**

70. These crossings were also considered together at the Inquiry, some issues were shared were between them, and others specific to the crossing route. The shared concerns presented by Mr Lee included that the desire lines are not maintained by the alternative route and whilst it is acknowledged that a footpath has been created to link the diversions together Mr Lee questions the need for this connectivity, particularly at the expense of the loss of the vital links created by the existing crossings. In cross examination, Mr Lee clearly states that a connection between E51 and E52 is not needed. The existing crossing provides key east west links, and the alternative route loses this and instead provides north south links.
71. Mr Lee's evidence is that walkers' access to the Area of Outstanding Natural Beauty is likely to be frustrated when these crossings are closed. Mr Lee accepted that the destination could not be reached by PROW alone and accepted that some road walking was used, however was steadfast in his view that the proposals renders access to Thornfield Wood unviable, and that the public's access to the AONB is frustrated.

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<sup>12</sup> NR135

72. In evidence Miss Tilbrook accepted that the current crossings provide circular walks, but did not agree with Mr Lee's assessment of the frustration of access to Thornfield Wood. Miss Tilbrook stated that the networks are maintained through road walking on the existing network.
73. In cross examination Mr Lee accepted that road walking forms part of the wider connectivity, and in re-examination clarified that ECC does not object to road walking per se, but that the character of the roads associated with these diversions were of concern.
74. The safety of road walking at both locations is a key for ECC, four sites in particular. Firstly, in relation to E51, the diversion takes users along a road flanked by high sided verges and overgrown vegetation. ECC provided additional photographs and the photos in pictures labelled A-D represented the severity of the banking and the negative effect it had on visibility. Mr Lee explained that Mr Seager was present in picture C for perspective and estimated that the banks at that point were some 4 feet high.
75. The road is narrow and single track and provides little or no opportunity for users to step off the carriageway. In cross examination Miss Tilbrook accepted that the previous position<sup>13</sup> of NR to simply cut back vegetation would not resolve the issue.
76. In evidence Mr Lee explained that during a site visit a local resident mowing her lawn near by proffered that she was a user of the current route to walk her dog with her daughter, she went on to explain that she would use the alternative to walk her dog, but it was dangerous and she would not take her daughter with her.
77. In Miss Tilbrook's appendices at Tab 2 the second consultation document for E51 is at page 296, it states that 88% of responses disagreed with the proposals.
78. The second safety concern related to the utilisation of the road bridges for both E51 and E52 diversions. Both bridges are narrow, single track and provide no point of step off for pedestrians. Mr Lee's evidence is that he didn't feel safe walking across either bridge and he was concerned that vehicles would not be able to see pedestrians. Mr Lee referred to the additional photos F and G taken of the bridge at E52 during his latest site visit. He was crossing the bridge as a dust cart pulled around the corner; the photographs show the vehicles tyre tracks tightly hugging the wall of the bridge demonstrating the little space available and the risk of conflict between vehicles and users.
79. Thirdly, a safety matter relating to Fordham Road, during their Road Safety Assessment Mr Seager and Mr Corbyn refused to walk this stretch of road, however in

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<sup>13</sup> As set out in RSA Design Response in Miss Tilbrook's rebuttal to ECC

discussions with Miss Tilbrook later conceded that with sufficient vegetation clearance, they would accept that suitable step off points could be created.

80. Finally, as part of the proposals, NR have proposed to re-align footpath 7 from a Crossfield path to the field edge. The concerns in doing so relate to the point that walkers exit the footpath and connect with Jupes Hill. This point is by the corner of a residential property with high boundary vegetation. The key considerations are that pedestrians do not have a proper sightline of oncoming traffic, and traffic is not able to see pedestrians. NR have submitted that if the Inspector were to consider retention of the existing route of this path it would not hold an objection.
81. ECC object to the closure of both E51 and E52 and maintain that the alternative routes are not suitable and convenient, in relation to the note<sup>14</sup> at para 4, the connectivity of the alternative routes are not fitting with a person's needs nor appropriate for a particular purpose as the alternatives create paths in a north south connection in replacement for paths existing for east west connectivity. Further, and in consideration of para 8 of the note, desire lines are not maintained, the length of the diversion is significant, and the routes proposed are not safe for the reasons explained above.

#### **D. Conclusion**

82. ECC have been fair in appraising the alternative routes presented by NR and have worked in cooperation with them throughout the Inquiry. ECC stress that out of the 42 proposals, ECC only maintain an objection to 7 sites. ECC believe that the proposed alternative routes presented at these locations are not suitable and convenient for the reasons above, and that these particular crossings are not aligned with NR's strategic case. It has been a theme that the use of the routes has generally been taken in the context of longer leisure walks which mitigate the additional length created by the routes. However in doing so, the local amenity use has been ignored and closure of these crossings will generally have a greater impact on the local community. ECC respectfully ask the Inspector and the Secretary of State to reject these crossings from the Order if the decision is that an Order under the TWA should be made.

Submission on behalf of Essex County Council  
7 February 2019

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<sup>14</sup> NR 135