

The Network Rail (Essex and Others Level Crossing Reduction) Order (“the Order”)

Planning Policy Note

Introduction

1. The Statement of Matters for the Inquiry sought information as to the extent to which the Order proposals are consistent with the National Planning Policy Framework (NPPF), national transport policy, and local transport, environmental and planning policies. On day 4 of the Inquiry, the Inspector requested a note setting out Network Rail’s appraisal of the Order proposals as against such relevant policies. Network Rail (NR) is satisfied that the proposals are consistent with those policies, and this Note is intended to provide further information to support that conclusion.
2. Since the initial consultations with the local planning and highway authority at the development stage of the proposals, the national policy (NPPF) has been revised and some of the local planning policies are in the process of being revised. As set out below, Network Rail is satisfied that its proposals remain consistent with the revised NPPF as well as local adopted local policies. The revised NPPF is addressed in a separate note, submitted to the inquiry on 11th September 2018 (NR111). A copy is appended hereto for ease of reference.

Overview of works

3. The Network Rail (Essex and Others Level Crossing Reduction) Order (“the Order”) comprises the closure or downgrade of 58 level crossings within Essex, Hertfordshire, the London Borough of Havering, Thurrock and Southend-on-Sea. As set out in the Statement of Case (NR26) the crossings selected are those where it is considered that the crossing can be closed or downgraded with minimal requirements for new infrastructure and appropriate suitable and convenient diversions provided to alternative existing crossing routes over the railway. The physical works required to achieve the level crossing and any diversion works are minimal and a summary of these works for each crossing is provided in the Design Guide (NR12).
4. Pursuant to Rule 10(6) of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 (“the 2006 Rules”), the application for the Order is accompanied by a request for a Direction under Section 90(2A) of the Town and Country Planning Act 1990. If given, the Direction would grant deemed planning permission, so far as it is required, for the development sought to be authorised by the Order, subject to any conditions.
5. Those elements of the proposals requiring deemed planning consent are the works authorised by the Order (particularised in Schedule 1 to the Order) and comprising 5 footbridges, together with other development authorised by the Order (which would otherwise require planning permission).
6. The project also authorises the stopping up, diversion and creation of rights of way. Whilst those powers do not themselves relate to works requiring planning permission, there are planning policies which are likely to be considered relevant in considering the Order.

Consultation with planning authorities

7. The crossings included in the Order are located across 9 district councils, five borough councils, a unitary authority, and a city council – all statutory consultees listed in

Schedules 5 and 6 of the 2006 Rules. The table below lists the relevant councils and the crossings within their administrative boundaries.

Planning Authority	Level Crossings
Basildon District Council	E33- Motorbike
Braintree District Council	E19- Potters E20- Snivellers E21- Hill House 1 E22- Great Domsey E35- Cranes No.1 E36- Cranes No.2 E37- Essex Way E54- Bures
Brentwood Borough Council	E28- Whipps Farmers E29- Brown and Tawse
Broxbourne Borough Council	H01- Trinity Lane H02- Cadmore Lane
Castle Point Borough Council	E30- Ferry E31- Brickyard Farm
Chelmsford City Council	E16- Maldon Road E15- Margaretting/Parsonage Lane E17- Boreham E18- Noakes E38- Battlesbridge
Colchester Borough Council	E23- Long Green E25- Church 2 E41- Paget E51- Thornfield Wood E52- Golden Square
East Hertfordshire District Council	H04- Tednambury H05- Pattens H06- Gilston H08- Johnsons H09- Fowlers

Epping Forest District Council	E01- Old Lane
Harlow District Council	E02- Camps E04- Parndon Mill
London Borough of Havering	HA01- Butts Lane HA02- Woodhall Crescent HA03- Manor Farm HA04- Eves
Rochford District Council	E26- Barbara Close
Southend-on-Sea Borough Council	E32- Woodgrange Close
Tendring District Council	E43- High Elm E45- Great Bentley Station E46- Lords No. 1 E47- Bluehouse E48- Wheatsheaf E49 – Maria Street E56 - Abbots
Thurrock Council	T01- No. 131 T04- Jeffries T05- Howells Farm
Uttlesford District Council	E05- Fullers End E06- Elsenham Emergency Hut E07- Ugley Lane E08- Henham E09- Elephant E10- Dixies E11- Windmills E12- Wallaces E13- Littlebury Gate House

8. Essex County Council (ECC) and Hertfordshire County Council are non-metropolitan county councils, and as the local highway authorities, are statutory consultees for the purpose of the 2006 Rules.
9. Pre-application consultation has been carried out with the local planning authorities and ECC since summer 2015. Details of engagement between Network Rail / Mott

MacDonald and the local authorities are set out in Network Rail's proofs of evidence and appendices and attention is drawn in particular to the meeting minutes in annex 5 of Susan Tilbrook's Appendices (NR 32-2).

10. As required, the local planning authorities were provided with the EIA Screening Request and submitted comments to the Secretary of State.
11. Three planning authorities objected to the Order: Southend-on-Sea (Obj/140); Colchester Borough Council (Obj/141) and Thurrock Council (Obj/186).
12. Southend-on-Sea has objected to the closure of E32 Woodgrange Close.
13. Colchester Borough Council (Obj/141) does not object to the closure of crossings E22 (Great Domsey), E23 (Long Green Marks Tey), E24 (Church 1 Marks Tey), E25 (Church 2 Marks Tey), E57 (Wivenhoe Park – [now withdrawn]), but does object to the closure of E51 (Thornfield), E52 (Golden Square), E41 (Pagets) and E42 (Sandpit – [now withdrawn]).
14. Thurrock Council (Obj/186) objects to the closure of E29 (Browne & Tawse), and T04 (Jefferies).
15. During 2016 Network Rail wrote to the local planning authorities updating them on the scheme proposals and asking for information on land allocations and development proposals in close proximity to the level crossings. The project team, through the landowner, public and strategic consultation, have developed further knowledge of consented, proposed and aspired development in the vicinity of the level crossings within the Order. This knowledge has been used to help develop and appraise the proposals.

The Development Plan

Basildon District Council

16. The current plan is the Basildon District Local Plan Saved Policies 2007. Network Rail does not consider that this contains policies relevant to the Order proposals.

Braintree District Council

17. The local plan is made up of a number of documents, including the Local Plan Review 2005 and the Core Strategy 2011. The relevant policies are as follows:
 - Policy CS7 Promoting Accessibility for All
 - Policy CS9 - Built and Historic Environment

Brentwood Borough Council

18. The Brentwood Replacement Local Plan was formally adopted by the Council on 25 August 2005. The Council is currently preparing a new Local Plan for the Borough for 2015-2030, which, once adopted, will supersede saved policies in the current Replacement Local Plan (2005). The relevant policies of the Replacement Local Plan are as follows:
 - Policy T12 - Rail Services
 - Policy GB27 - Access to the Countryside

Broxbourne Borough Council

19. The Broxbourne Local Plan Second Review covers the period 2001-2011 and was adopted in December 2005. A number of these policies have been saved. The relevant policies are as follows:

- Policy T9 - Pedestrian Needs
- Policy GBC 17 - Protection and Enhancement Of Public Rights Of Way

Castle Point Borough Council

20. The current Local Plan was adopted in November 1998 and a number of the policies in the plan have been saved. The relevant saved policies of the Local Plan are as follows:

- Policy RE12 - Public Rights Of Way

Chelmsford City Council

21. Chelmsford City Council's existing local plan is called the Local Development Framework (2008). The Plan is made up of five key documents which set out proposals and policies about where the Council expects development and change until 2021. The Council is currently working on its new Local Plan which will help it plan growth until 2036. It intends to replace all of the existing plans with the new Local Plan in 2018/19. The relevant policy in the Local Development Framework is:

- Policy CP13 - Minimising Environmental Impact

Colchester Borough Council

22. The adopted Local Plan comprises a set of adopted Development Plan Documents. The Core Strategy (adopted 2008, amended 2014) , the Development Policies DPD (adopted 2010, amended 2014) , Proposals Maps (adopted 2010) and the Tiptree Jam Factory DPD (adopted 2013) (which is not relevant to the Order proposals). The relevant policies in the Core Strategy are as follows:

- Policy TA2 – Walking and Cycling
- Policy ENV1 – Environment

The relevant policy in the Development Policies DPD is:

- Policy DP1 - Design and Amenity

East Hertfordshire District Council

23. The Council's current planning policies are set out in the Local Plan 2007.

The new District Plan will set out the planning framework for the District for the period of 2011-2033. The Secretary of State has issued a holding direction in relation to the adoption of this plan preventing the Council from formally adopting it. The relevant District Plan policies are as follows:

- Policy LRC9 - Public Rights of Way
- Policy Env 13 Development and SSSIs

Epping Forest District Council

24. The development plan for Epping Forest District Council's area comprises the Combined Policies of Epping Forest District Local Plan 1998 and Alterations 2006 (published 2008). The Epping Forest Local Plan Local Plan document was adopted in 1998. In 2006 the Council adopted the Local Plan Alterations, which replaced parts of the 1998 Local Plan and includes the following relevant policies.

- Policy CP1 – Achieving Sustainable Development Objectives
- Policy CP2 – Protecting the quality of the rural and built environment
- Policy CP9 - Sustainable Transport
- Policy RST2 – Enhance rights of way network
- Policy RST3 – Loss or diversion of rights of way

Harlow District Council

25. The development plan for Harlow District Council comprises the Adopted Replacement Harlow Local Plan 2006. The Council is currently preparing and has consulted on a new Local Plan for Harlow. Relevant policies of the Adopted Replacement Harlow Local Plan 2006 are:

- Policy SD3 - Sustainable development
- L13- Public Rights of Way

London Borough of Havering

26. The current development plan for the London Borough of Havering (LBH) comprises the Core Strategy and Development Control Policies Development Plan Document 2008, Site Specific Allocation 2008, Romford Area Action Plan 2008 and Joint Waste Development Plan 2012. The LBH has submitted its Havering Local Plan (2016-2031) for examination on 27 March 2018.

27. The Core Strategy and Development Control Policies DPD contains the following policies which are relevant to the proposals:

- Policy CP7 – Recreation and Leisure
- Policy CP10 – Sustainable Transport
- Policy CP15 – Environmental Management
- CP16 – Biodiversity and Geodiversity
- Policy DC22 – Countryside Recreation

Rochford District Council

28. The Council's local development plan comprises:

- Core Strategy (adopted December 2011) which sets out the spatial vision, strategic objectives and core policies up to 2025;
- Allocations Plan (adopted February 2014) which sets out site specific policies and land use allocations over the plan period;
- Development Management Plan (adopted December 2014) which sets out detailed policies for managing development across the District;
- London Southend Airport and Environs Joint Area Action Plan (adopted December 2014), produced in conjunction with Southend Borough Council, which sets out detailed policies for managing growth and change at the airport and in the surrounding area (not relevant to the Order proposals);

- Hockley Area Action Plan (adopted February 2014) sets out detailed policies for managing development in the centre of Hockley (not relevant to the Order proposals);
- Rochford Town Centre Area Action Plan (adopted April 2015) sets out detailed policies for managing development in and around Rochford town centre (not relevant to the Order proposals);
- Rayleigh Centre Area Action Plan (adopted October 2015) sets out detailed policies for managing development in the centre of Rayleigh (not relevant to the Order proposals).

The relevant policies in the Core Strategy are:

- Policy T1 - Highways
- Policy T6 – Cycling and Walking

Southend-on-Sea Borough Council

29. The Council's development plan documents comprise: Core Strategy (adopted 2007); Development Management (adopted 2015); Joint Area Action Plan for London Southend Airport (adopted 2014) (not relevant to the Order proposals) and Southend Central Area Action Plan (adopted 2018). The Council is currently preparing a new Local Plan for the Borough. The relevant policies in the Core Strategy are:

- Policy KP2 – Development Principles
- Policy CP3 – Transport and Accessibility

Tendring District Council

30. The current Local Plan was adopted in 2007, although some policies are out of date and not in accordance with the national planning policy. In October 2017, the Council submitted its new Local Plan to the Planning Inspectorate. The relevant policies of the current Local Plan are:

- QL11- Environmental Impacts and Compatibility of uses
- EN5- Areas of Outstanding Natural Beauty (AONBs)
- Policy TR4 – Safeguarding and Improving Public Rights of Way

Thurrock Council

31. The current Local Plan is the Core Strategy and Policies for Management of Development (adopted in January 2015). The relevant policies are:

- Policy CSTP14 – Transport in the Thurrock Urban Area
- Policy CSTP15- Transport in Greater Thurrock
- Policy CSTP16 National and Regional Transport Networks

Uttlesford District Council

32. The adopted local plan for Uttlesford is the 2005 Local Plan. The relevant policies are:

- Policy GEN2 – Design
- Policy GEN7 – Nature Conservation
- Policy ENV7 - The Protection of the Natural Environment - Designated Sites

Other material considerations

The NPPF

33. The NPPF was revised in July 2018. The note on the revised NPPF has been submitted to the Inquiry (NR111) and is attached for reference.

National Networks NPS

34. The National Policy Statement for National Networks (2014) (National Networks NPS) relates to Nationally Significant Infrastructure Projects but contains policy which is relevant to this Order (see also Mark Brunnen's Proof of Evidence, para 5.1). Relevant policies within the NPS include the following:

- "2.2 *There is a critical need to improve the national networks to address..... crowding on the railways to provide safe, expeditious and resilient networks that better support social and economic activity; and to provide a transport network that is capable of stimulating and supporting economic growth...*
- 2.9 *Broader environment, safety and accessibility goals will also generate requirements for development. In particular, development will be needed to address safety problems, enhance the environment or enhance accessibility for non-motorised users. In their current state, without development, the national networks will act as a constraint to sustainable economic growth, quality of life and wider environmental objectives.*
- 2.10 *The Government has therefore concluded that at a strategic level there is a compelling need for development of the national networks – both as individual networks and as an integrated system.*
- ...
- 2.29 *In the context of the Government's vision for the transport system as a driver of economic growth and social development, the railway must:*
- *offer a safe and reliable route to work;*
 - *facilitate increases in both business and leisure travel;*
 - *support regional and local public transport to connect communities with public services, with workplaces and with each other, and*
 - *provide for the transport of freight across the country, and to and from ports, in order to help meet environmental goals and improve quality of life.*
- ...
- 3.12 *It is the Government's policy, supported by legislation, to ensure that the risks of passenger and workforce accidents are reduced so far as reasonably practicable. Rail schemes should take account of this and seek to further improve safety where the opportunity exists and where there is value for money in doing so by focussing domestic efforts on the achievement of the European Common Safety Targets."*

Essex County Council Policy

35. Essex County Council (ECC), as the local highways authority, is responsible for keeping the definitive rights of way maps up to date and developing Rights of Way Improvement Plans.
36. ECC's policies do not form part of the statutory development plan but may be material considerations. Key policy documents include:

- Local Transport Plan (2011 – 2025)
- Rights of Way Improvement Plan
- Essex Cycling Strategy
- Essex Highways Maintenance Strategy
- Highways and Transportation Asset Management Strategy
- Essex Walking Strategy

Hertfordshire County Council Policy

37. Similarly, Hertfordshire County Council's policies do not form part of the statutory development plan but may be material considerations. The key policy document, for the purposes of this Order, is Hertfordshire's Local Transport Plan 2018-2031

Planning Policy Assessment

Principle of the level crossing closures

38. The evidence of Mark Brunnen and Eliane Algaard considers the purposes of the Order and the reasons for seeking to close or downgrade level crossings.

39. In terms of safety for level crossings users and rail users, national and local planning policy supports the provision of safe transport networks (including the railway and non-motorised users):

- a. the NPPF supports the provision of safe routes for pedestrians and cyclists (see NR111 for consideration);
- b. Providing a safe railway is a key objective of the National Networks NPS;
- c. Epping Forest Policy CP9 supports the provision of "a safe and efficient transportation network that improves the accessibility of local communities"
- d. Rochford District Council Policy T6 states the Council's commitment "to ensure that a safe and convenient network of cycle and pedestrian routes is put in place to link homes, workplaces, services and town centres".

40. In terms of improving the operational efficiency of the railway, and enabling future enhancements to the rail network, again national and local planning policy supports the Order. The particular provisions of the local development plans which are of note include:

- a. Southend-on-Sea BC Policy CP3 promotes improvements to transport infrastructure by, inter alia, *"improving the road and rail network to deliver improvements to accessibility, traffic flows, travel choice and freight distribution"*.
- b. LB Havering Core Strategy Policy CP10 provides (inter alia) that *"a choice of sustainable transport modes, where travel is necessary, will be promoted by ... working in partnership with the relevant agencies to seek funding for and deliver the following public transport improvements to support development priorities and ensuring that new development is designed and laid out with regard to these to facilitate its deliverability"*

...

- *Improvements to the c2c railway line from London to Southend via Rainham and Upminster including the new Beam Reach Station*

- c. Thurrock Council's Core Strategy Policy CSTP16 set out that *"The Council will work with partners to deliver improvements to national and regional transport networks to ensure growth does not result in routes being above capacity"*.
- d. Brentwood Borough Council's Policy T12 states that the Council *"will continue to seek, as a minimum, retention of existing services, and, where possible encourage the introduction of improved and new services"*.
- e. Braintree BC CS7 Key Transport provision table (mentions feasibility study of branch lines).

41. In terms of the County transport policies, ECC acknowledges that *"The principles underlying the Anglia Level Crossing Reduction Strategy are therefore broadly in line with ECC's long term transport strategy and stated aim to improve connectivity and support economic growth"* – see Proof of Evidence Alastair Southgate paragraph 5.

NR would draw attention, in particular, to the following policies of the ECC Local Transport Plan:

- a. Policy 4: Public Transport; and
- b. Policy 5: Connectivity

42. Similarly, Policy 10 – Rail - of the Hertfordshire County Council Transport Plan supports improvements to the rail network, with the policy providing (inter alia) that:

"The county council will support and promote rail use in the county, especially in order to reduce car use. To do this it will:

- a) *Work with the rail industry and other partners to seek improvements to train services in regards to capacity, journey times, frequency and range of destinations served.*
- [...]"*

43. The overall objectives of the Order scheme therefore accord with the development plan and other material considerations.

Impact on rights of way network and provision of alternative routes

44. National and local planning policy support the protection and enhancement of the rights of way network.

45. In line with national policy framework, the importance of public rights of way is recognised in all local development plans, which also support the promotion of walking and cycling.

Examples include:

- a. Harlow District Council's Policy L13;
- b. Tendring District Council Policy TR4;
- c. Epping Forest DC Policies RST2 & 3;
- d. Brentwood Borough Council Policy GB27;
- e. Broxbourne Borough Council Policy GBC17;
- f. Castle Point Borough Council Policy RE12;

46. East Hertfordshire District Council Policy LRC9 states:

“Any proposals for development must not adversely affect any Public Right of Way and, where possible, should incorporate measures to maintain and enhance the rights of way network”.

47. NR would highlight, however the following in respect of the local plan policies:

- a. A number of the policies are concerned with provision of new PROWs associated with new developments, or seeking enhancements/improvements to the PROW network (see also the ECC ROWIP). That is not the purpose of this Order, nor what is required under s.5(6) TWA 1992;
- b. To the extent that local plan policies (for example, Harlow Local Plan Policy L13) stipulate requirements that new PROW should meet, if and to the extent that those policies depart from (and/or go beyond) the ‘policy’ test set out in the TWA Guidance NR would respectfully submit that it clearly cannot ‘trump’ the same. Nor can it require a different, or more onerous, test to be applied in considering the replacement PROW to be provided within that area to that which applies to the other crossings within the Order.

48. The evidence of Susan Tillbrook addresses how the provision of alternative routes has sought to protect the rights of way network as a whole and provide enhancements where possible, focusing on the provision of convenient and suitable alternatives to the routes which would be affected by level crossing closures. That approach (as endorsed by the Guide to TWA Procedures, and subject to other submissions) accords with relevant planning policy.

Policies relevant to authorised works

Works design

49. The NPPF emphasises the importance of design, and principles of good design are also enshrined in the relevant development control policies in respect of each local planning authority’s area (see above).
50. The works promoted by the order and deemed planning consent are minor in nature and already common place within the rural setting – for example public right of way finger posts, public right of way foot and bridleway bridges over local drains and ditches, unsurfaced field margin footpaths etc. The order requires the design of these features to be agreed with the relevant authorities. Maintenance liability is being addressed with ECC through the provision of commuted sums (see NR118).

Ecology and Environment

51. The Network Rail Note (NR111) confirms that Network Rail considers that the Order proposals are consistent with the ecological and environmental policies of the revised NPPF.
52. Network Rail has carried out an extensive programme of environmental surveys to understand local constraints and inform scheme development. Diversion routes have been designed to avoid protected species, and the use of existing gaps in hedges / watercourse crossing points used wherever possible. A Precautionary Method of Works (PMW) has been produced and is currently being consulted on with the local planning authorities. The implementation of the processes and measures set out in the PMW is proposed to be controlled by condition.

Historic Environment

53. The revised NPPF states that “Plans should set out a positive strategy for the conservation and enjoyment of the historic environment, including heritage assets most at risk through neglect, decay or other threats.” Paragraph 184 states that “These assets are an irreplaceable resource and should be conserved in a manner appropriate to their significance” (paragraph 184). Again, there are similar heritage related policies in the relevant local plans.

Regarding archaeology, there is a draft planning condition included in the request for deemed planning permission (NR10) which will be discussed at the conditions session.

Construction

54. Development plan policies do not routinely address construction impacts which are generally controlled by environmental health regimes. For completeness, Network Rail contractors are required to comply with Network Rail’s Contract Requirements Environment (CR-E) document NR/L2/ENV/015 Issue 6 (2011), all construction work will be carried out in accordance with the standard principles outlined in the CR-E (located in Appendix D of the EIA Screening submission). In addition to the CR-E, a Construction Environmental Management Plan (CEMP) will be prepared and implemented by the appointed contractor and will be agreed with the LPAs. The CEMP will be aligned to the principles in the CR-E and will set out the general environmental management principles to be implemented including specific measures to manage and reduce impacts on air quality, biodiversity, cultural heritage, land quality, noise and vibration, surface water and groundwater, traffic and transport and waste and materials.

Environmental Impact Assessment Screening

55. An EIA Screening opinion was submitted to the DfT on the 31st January 2017. The response received on the 15th of March 2017 confirmed that no environmental impact assessment was required (NR11).

Planning Conditions

56. As part of the submission documents (NR10), Network Rail have suggested conditions in regard to ecology, archaeology, landscaping, and design approval of footbridges. The need for such conditions is accepted and the wording of these is the subject of ongoing discussion with the LPAs and highway authorities.

Once agreed, these conditions will give assurance that the control and mitigation measures set out in the various submissions will be implemented in full.

Conclusion

57. The proposed works, which form part of this application (the closure / downgrade level crossings), will result in improvements to the safety of users of level crossings and the operational railway.
58. Connectivity will be maintained through the provision of upgrades and new additions to the surrounding public right of way network. Local and national planning policy has been considered through the scheme development process and the proposals comply with the NPPF and policies set out within the adopted Local Plans and transport plans.

59. For that reason, NR submits that the Inspector may properly report that the proposals are consistent with the NPPF, national transport policy, and local transport, environmental and planning policies because they further public safety, improve the operational efficiency of the railway, and assist in the delivery of future enhancements to the railway.

In so doing, they promote sustainable transport and economic growth. The public rights of way diversions do not have a material adverse effect on the rights of way network and therefore are acceptable in terms of those policies.

The operational development authorised by the Order is modest and consistent with local and national planning and other relevant policies. The planning conditions assist in securing compliance with other relevant policies in respect of design, ecology and heritage matters.

Winckworth Sherwood LLP

16 October 2018