



# Department for Transport

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Our Ref: TWA/22/APP/04

28 March 2024

Dear Elsenaar,

## **TRANSPORT AND WORKS ACT 1992: APPLICATION FOR THE PROPOSED NETWORK RAIL (CAMBRIDGE RE-SIGNALING) ORDER**

1. I am directed by the Secretary of State for Transport (“the Secretary of State”) to say that consideration has been given to the report of the Inspector Malcolm Rivett BA (Hons) MSc MRTPI (“the Inspector”) dated 2 October 2023. The Inspector held an inquiry between 12 to 14 and 17 April 2023 into the application made by your client, Network Rail Infrastructure Limited (“NR”) for the Network Rail (Cambridge Re-signalling) Order (“the Order”) made under sections 1 and 5 of the Transport and Works Act 1992 (“TWA”).

2. Enclosed with this letter is a copy of the Inspector’s Report. All “IR” references in this letter are to the specified paragraph in the Inspector’s Report. The names of objectors are accompanied by their reference number in the form of “OBJ/xx”.

3. The Order as applied for would confer powers on NR to compulsorily acquire land and rights in land and take temporary possession in connection with the works required for the re-signalling of the Cambridge station interlocking area and the upgrade of the relevant level crossings, including any other works and operations incidental or ancillary to such works (“the Scheme”).

### **Summary of Inspector’s Recommendations**

4. The Inspector recommended that the Order should be made, subject to modifications.

### **Summary of Secretary of State’s Decision**

5. For the reasons given in this letter, **the Secretary of State has decided to make the Order with modifications** with the exception of the proposed level crossing upgrades at Meldreth Road and Waterbeach.

## **Secretary of State's consideration**

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

7. The application for the Order was made on 5 August 2022. There were 31 objections registered. Three objections (from Cambridgeshire County Council, Norfolk County Council and Kilverstone Estate LLP) were withdrawn prior to, or during the course of the Inquiry. The Secretary of State also received 5 letters of representation (IR 1.16). At the close of the Inquiry there were 28 objections remaining, one of which is from the owners/occupiers of land who would be directly affected by the Order's provisions for Network Rail to acquire land or rights over land at, or close to, the Six Mile Bottom Level crossing (IR 1.17).

## **Legal and Procedural Matters**

8. In making the application NR is required to comply with the publicity requirements of the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2006 ("the 2006 Rules"). This includes serving copies of the application and accompanying documents on the persons specified in the 2006 Rules and making the documents available for public inspection. NR are also required by the 2006 Rules to display and publish notices giving information about the application and how to make representations to the Secretary of State. The Secretary of State notes that NR confirmed that it had complied with all relevant statutory requirements in promoting the Order and how it complied with its obligations under the 2006 Rules (IR 1.18). He also has taken account of the affidavit prepared in compliance with rule 10(8) of the 2006 Rules which provided formal confirmation of such compliance (IR 1.19). He has further had regard to the Inspector's conclusions that no evidence had been seen that the statutory requirements had not been met and like the Inspector he is satisfied that the appropriate procedures under the 2006 Rules were followed. The Secretary of State agrees with the Inspector that the relevant procedural requirements have been met, as set out in the affidavit from NR's Solicitors which was submitted to him dated 15 August 2022 (IR 1.20).

9. While the application did not seek deemed planning permission, the Secretary of State needed to be satisfied that the necessary planning permissions were in place before making a decision in relation to the TWA application and has regard to the fact that planning permission has now been obtained for all level crossings (IR 3.4). He notes that NR contend that the equipment/structures at some of the locations are "Permitted Development", subject to Prior Notification, as defined by the Town and Country Planning (General Permitted Development) Order 2015 Town and Country Planning permitted and the Inspector concluded there was nothing to suggest that this is not correct. However, under the General Permitted Development Order some of the equipment/structures are permitted development subject to "Prior Approval" whilst others require planning consent (IR 1.10 and IR 4.15). The Secretary of State notes that the necessary prior approvals and consents have been secured by way of the following:

- Milton Fen – Permitted Development subject to Prior Notification made on 24 November 2022;

- Six Mile Bottom – Permitted Development subject to Prior Notification made on 24 November 2022;
- Waterbeach – Permitted Development subject to Prior Notification made on 24 November 2022;
- Dullingham – Prior Approval (Ref 23/00048/P18) granted by East Cambridgeshire District Council on 29 March 2023;
- Dimmock’s Cote – Prior Approval (Ref 23/00043/P18) granted by East Cambridgeshire District Council on 28 March 2023;
- Croxton – Planning Permission (Ref 3PL/2022/1442/F) granted by Breckland Council on 2 March 2023;
- Meldreth – Planning Permission (Ref 22/05204/FUL) granted by South Cambridgeshire District Council on 25 May 2023;
- Hauxton Road, Foxton – Planning Permission (Ref 22/05163/FUL) granted by South Cambridgeshire District Council on 13 April 2023.

10. Whilst some objectors argued that more extensive consultation on the proposed Order and the related scheme should have been undertaken, the Secretary of State notes that the Inspector has seen no evidence that the statutory requirements in this respect were not met. Considering this, and the Note of Compliance, the Inspector is satisfied that NR has complied with all the statutory procedural requirements in promoting the Order and the Secretary of State concurs with that view (IR 1.20).

## **Equality**

11. The Secretary of State has complied with the public sector equality duty and has, in relation to the aims expressed in section 149(3) to (5), had due regard to the need to eliminate discrimination, advance equality of opportunity and foster good relations between persons who share a protected characteristic and persons who do not. The Secretary of State notes that the Inspector has had due regard to these aims and he has also had due regard to them where relevant below (IR 1.21). The Secretary of State considers that the scheme would be unlikely to conflict with the aims of the Equality Act 2010.

## **Aims, objectives and need for the Scheme**

12. NR set out that the purpose of the Order is to enable the construction and operation of a scheme of re-signalling of the railway in the Cambridge area covering around 125 miles of track. Additionally, to upgrade seven level crossings at Meldreth Road, Six Mile Bottom, Dullingham, Milton Fen, Waterbeach, Dimmock’s Cote and Croxton with the stated aim of improving safety at them (IR 1.2).

13. The re-signalling element of the Scheme is to renew the life-expired signalling assets in the Cambridge area, replacing the existing mechanical signalling system, dating back to the 1980’s with a modern digital signalling system, managed from a centralised location. The re-signalling is needed because the existing system suffers from obsolete components, severe wire degradation and several signal boxes have reached the end of their lives, resulting in a reduction in signal reliability. Without the re-signalling project increasingly frequent signalling failures would be likely to reduce the capacity of the railway, causing delays to, and cancellations of, train services. The key objectives of the re-signalling elements are to improve the performance, reliability and maintainability of the signalling

infrastructure; enable ongoing safe operation of the railway; reduce the operational cost of the railway; and future-proof in terms of the connection with future Ely area capacity enhancements, the re-signalling of Peterborough – Ely – Kings Lynn and to enable enhanced freight and cross-country services (IR 3.14, IR 3.15 and IR 4.21).

14. The aims and objectives of the level crossing upgrade elements of the Scheme is to improve the safety of the seven affected crossings and enable compliance with the Office of Rail and Road's requirement to improve safety by moving away from Automatic Half Barrier ("AHB") crossings. It is also stated by NR that combining the re-signalling element of the Scheme with the level crossing upgrades, would during construction works, save costs (approx. £0.9m per crossing on average) and reduce disruption to road and rail users (IR 1.6, IR 3.15 and IR 4.28).

15. The Secretary of State notes that there are no, in principle, objections to the re-signalling element of the Scheme, and there is support for it from some of those who object to the level crossing upgrades (IR 2.3). The Secretary of State is satisfied with the view of the Inspector that the identified benefits of the re-signalling are substantial (IR 4.22). The merits of the level crossing upgrades are given further consideration later in this letter.

## **Alternatives**

16. In considering alternatives, it is noted that the re-signalling element of the Scheme is fundamentally a renewal project and is seeking to bring up to modern standards assets that are several decades old. The key objectives include improving the performance, reliability and maintainability of the signalling infrastructure by renewing existing assets to enable the safe operation of the railway. The only other alternative would be not to undertake the renewal, which the Secretary of State agrees would not be a reasonable alternative (IR 4.23).

17. In respect of the proposals to upgrade the level crossings from AHB crossings, which are currently in place, with Manually Controlled Barrier monitored by obstacle detection ("MCB-OD") at Six Mile Bottom, Dullingham, Milton Fen, Waterbeach, Dimmock's Cote and Croxton crossings and a Manually Controlled Barrier monitored by CCTV ("MCB-CCTV") at Meldreth Road crossing, NR considered a range of alternatives for each crossing. These are set out in Narrative Risk Assessments and the options considered included road closures, a bridge to replace the level crossing or additional lights and alarms at the crossings and safety campaigns. The Inspector is of the opinion that the reasons for rejecting these alternatives are credible and there are few, if any, objections arguing to the contrary. The Secretary of State agrees with the Inspector's conclusion (IR 4.72).

18. During the Inquiry the Inspector called into question the consistency of the approach adopted when considering the level crossings upgrade. The approach to managing level crossing safety is documented in NR's *"Enhancing Level Crossing Safety – 2019 – 2029"* (IR 4.73). In relation to AHB the document states *"To improve the levels of protection, but maintain convenience levels, we will continue to develop a variant to half barriers by using obstacle detection technology to design an AHB+ crossing type"* (IR 4.74).

19. However, AHB+ upgrading in the Narrative Risk Assessments is only considered in respect of the Meldreth crossing. The Inspector questioned NR on the consistency of the adopted approach to level crossing safety. NR submitted further written evidence which

explained that as a consequence of work undertaken by the Transport Research Laboratory and Aegis Engineering Systems in 2019/2020, NR’s Level Crossings Infrastructure System Review Panel (“ISRP”) had concluded that AHB+ does not present a sufficient improvement to the level of safety of AHB crossings and therefore should not be progressed on the basis that it would not present a sufficient improvement to the level of safety of AHB crossings. However, the detail of this work was not before the Inspector who noted that three years on from the ISRPs conclusions it remains the case that NRs formally published approach to level crossing safety still refers to retaining the convenience of limited road closures times through the use of AHB+ technology. The Secretary of State notes the conclusions of the Inspector that there is a lack of clarity by NR with the approach to upgrading level crossings in relation to safety as published in “*Enhancing Level Crossing Safety – 2019 – 2029*” (IR 4.75 to IR 4.77).

## Likely Impacts of the Scheme

### Safety Impacts

20. Safety assessments of the level crossings that make up part of the Scheme have been assessed by NR using the All Level Crossing Risk Model (“ALCRM”) (IR 4.29). The main types of risks associated with these crossings are barrier weaving, blocking back over the crossing and poor behaviour from pedestrians. The Narrative Risks Assessments set out in detail the risk posed by each of the crossings and were summarised by the Inspector (IR 3.20) as follows:

- Milton Fen – ALCRM rating of ‘very high-risk crossing’.
- Dimmock’s Cote – ALCRM rating of ‘very high-risk crossing’.
- Six Mile Bottom – ALCRM rating of ‘medium to high-risk crossing’.
- Dullingham - ALCRM rating of ‘moderate risk crossing’.
- Croxton - ALCRM rating of ‘very high-risk crossing’.
- Waterbeach - ALCRM rating of ‘extremely high-risk crossing’.
- Meldreth Road - ALCRM rating of ‘very high-risk crossing’.

21. NR presented analysis during the Inquiry to demonstrate how the proposed level crossing upgrades will improve the Fatality and Weighted Injury Score (“FWI”). (The FWI of a level crossing means that for each fatality there is the same likelihood of there being 10 serious injuries instead on its current risks). In Table 1 below the safety impacts are summarised which also includes NR’s calculation of the benefit cost ratio (“BCR”) which forecast injury/fatality cost savings against the construction and operation costs of the upgraded crossing (IR 4.30).

**Table 1 – Safety impacts & benefit cost ratio**

<b>Crossing</b>	<b>Current crossing average fatality rate (one every x years)</b>	<b>Upgraded crossing average fatality rate (one every x years)</b>	<b>Benefit Cost Ratio (BCR)</b>
Milton Fen	76 years	1,272 years	0.13

Waterbeach	24 years	398 years	0.36
Dimmock's Cote	23 years	481 years	0.37
Croxton	145 years	2,704 years	0.08
Six Mile Bottom	82 years	3,080 years	0.14
Dullingham	15,536 years	8,919 years	0.03
Meldreth	56 years	922 years	0.425

22. The Inspector acknowledges that the forecast reductions in injuries/fatalities arising from the level crossing upgrades are very significant but notes that the figures do not include fatalities/injuries which result from deliberate acts or the asset condition of the crossing nor, in respect of Dullingham, the risk to NR staff who operate the existing Manned Gate Hand-Operated crossing at this location (IR 4.31).

23. When considered in the context of the existing safety situation the Inspector makes an important distinction on the data provided by NR of all incidents that have happened at each of the seven crossings since 2005, noting that most recorded incidents did not result in an injury or fatality (IR 4.33).

24. NR's calculations indicate that the monetary costs of the upgrades would be more than double the monetary benefit of the forecast reduction in injuries and fatalities. With four of the crossings (Milton Fen, Croxton, Six Mile Bottom and Dullingham) the costs would be more than five times the benefits in terms of the forecast reductions in injuries and fatalities. Therefore, the Secretary of State agrees with the conclusions of the Inspector that in proportional terms the forecast reductions in injuries/fatalities as a result of the level crossings upgrades are very significant, but in the context of the current safety situation the proposed upgrades would have a moderate benefit in terms of safety (IR 4.37 and IR 4.38).

### **Impacts on road users**

25. The accuracy of the modelling of barrier downtimes and delays to road traffic and pedestrians as a consequence from the crossing upgrades are the main areas of objections to the level crossing upgrades element of the Scheme. The Inspector agreed with the objectors regarding the evidence submitted by NR in respect of delays was confusing and, in some places, the Inspector was of the view accidentally, misleading. The Inspector referred to the number of important errors and a lack of explanation of some key figures in the documents which were only corrected and adequately explained at the Inquiry (IR 4.39). The Inspector indicated that on gaining a full understanding of the modelling work at the Inquiry and in the light of all the evidence both in support of and objection to it, he concluded that for the reasons set out below in relation to the main points of contention, that the modelling of delays advanced by NR is essentially robust (IR 4.42).

26. The modelling work presented by NR is based on forecast minimum barrier downtimes for the upgraded level crossings. The minimum downtimes are only estimates but they are based on experience of operating similar crossings elsewhere combined with specific knowledge of each of the crossings in the Scheme and their locations. While they can only be estimates and are likely to vary marginally dependent on the precise location of new signals and so on, the Inspector's view was that there was no convincing evidence to indicate that they are fundamentally inaccurate (IR 4.43).

27. Having examined and fully and properly understood the modelling work presented by NR and subject to the corrections of some errors during the course of the Inquiry, the Inspector is of the opinion that it provides essentially a robust assessment of the overall likely impact of the proposed level crossing upgrades on the majority of road users, the majority of the time. The Performance Report is summarised in Table 2 below and sets out for each of the seven level crossings considered in the Scheme the average journey time increase, the maximum queue length increase and the average queue length increase. (IR 4.50 and IR 4.51).

**Table 2 – Projected impacts of level crossing upgrades**

Level Crossing	Traffic flow (vehicles)	Average journey time increase	Maximum queue length increase	Average queue length increase
Milton Fen	16 (AM) 14 (PM)	<b>60%</b> (77s - 123s)	<b>600%</b> (1m - 7m)	<b>200%</b> (1m - 3m)
Waterbeach "DS2" Model	605 (AM) 480 (PM)	<b>44%</b> (132s - 190s)	<b>1,419%</b> (37m – 562m)	<b>1,845%</b> (11m- 214m)
Dimmock's Cote	403 (AM) 369 (PM)	<b>129%</b> (91s - 208s)	<b>1,435%</b> (17m – 261m)	<b>1,383%</b> (6m – 89m)
Croxton	522 (AM) 481 (PM)	<b>11%</b> (169s – 188s)	<b>84%</b> (73m – 134m)	<b>307%</b> (14m – 57m)
Six Mile Bottom	1,109 (AM) 1,060 (PM)	<b>9%</b> (129s -141s)	<b>199%</b> (162m – 485m)	<b>358%</b> (24m – 110m)
Dullingham	53 (AM) 40 (PM)	<b>-30%</b> (117s – 82s)	<b>-56%</b> (18m – 8m)	<b>-40%</b> (20m – 12m)
Meldreth Road	110 (AM) 114 (PM)	<b>138%</b> (47s - 112s)	<b>283%</b> (18m – 69m)	<b>375%</b> (4m – 19m)

28. It is apparent from Table 2 the increased barrier downtime resulting from the proposed level crossing upgrades would vary in impact on road users depending on the location (IR 4.52). The Secretary of State agrees with the findings and conclusions of the Inspector that with regards to traffic flow, the increased barrier downtime from the proposed level crossing upgrades would have significant adverse impacts on road users, in terms of journey times, queueing, or both at Waterbeach, Dimmock's Cote, Six Mile Bottom and Meldreth Road crossings. The Inspector reached this conclusion notwithstanding the lack of any objection to the upgrades from the local highway authority, Cambridgeshire County Council (IR 4.56).

**Impacts of the changes on crossing users including motorised vehicle, pedestrians, cyclists and other non-motorised users**

29. Table 3 below sets out the peak hour pedestrian flows at each of the crossings, which other than at Milton Fen and Waterbeach is less than four per hour and in some cases zero. The Secretary of State notes that whilst the extended barrier downtimes might cause some people at Milton Fen some annoyance it would be unlikely to result in any

significant inconvenience and he concurs with the Inspector that the request for a shelter for walkers is a matter for NR and is not something on which the acceptability of the upgrade is dependent (IR 4.59).

**Table 3 – Peak hour pedestrian flows**

Level Crossing	Increase in Level Crossing Use	Traffic Flow (Veh.)- AM Peak	Traffic Flow (Veh.)- PM Peak	Ped Flow (Veh.)- AM Peak	Ped Flow (Veh.)- PM Peak	Max. Queue Length Increase (m)	Max. Journey Time Increase (s)	Max. Average Delay (s)
Milton Fen	+1	16	14	21	10	6	46	31
Waterbeach	+2	605	480	43	26	175	53	7.2
Dimmocks Cote	+4	403	369	0	0	244	116	103
Croxton	+2	522	481	0	0	80	20	18
Six Mile Bottom	+1	1109	1060	3	0	322	12	13
Dullingham	+1	53	40	4	0	-2	-18	-17
Meldreth	+2	110	114	4	0	52	65	27

30. It is noted that the number of pedestrians crossing Waterbeach level crossing are likely to be users of the adjoining Waterbeach station who would need to cross the level crossing on foot on either their outward or return journey. The Secretary of State notes that currently, the barrier at this crossing is down for 16% of the morning peak hour but would increase to 49% as a result of the proposed crossing upgrade. The Secretary of State notes that the Inspector shares the concerns of objectors regarding the potential for passengers missing trains whilst waiting at the level crossing and agrees with the view that the increased barrier downtime resulting from the proposed level crossing upgrade being a disincentive to residents of Waterbeach from using the train particularly for the relatively short journey to Cambridge or Ely (IR 2.7, IR 2.11 and IR 4.61).

31. The Secretary of State notes that planning permission has been granted for a replacement Waterbeach station away from the level crossing, at which point the existing station would be closed. NR argued at the Inquiry that this would significantly limit the inconvenience the upgrade will cause to rail passengers and substantially explains why a footbridge or pedestrian underpass is not justified at Waterbeach. The Secretary of State notes that NR has not disputed the comments from the Fen Line Users Association that closure of the station was originally proposed more than twenty years ago and the date has slipped repeatedly since then. He further notes the Inspector's comments that in the absence of evidence to indicate the extent to which vehicular traffic flow at the Waterbeach crossing will alter if and when the station is relocated, there remains the potential for significant journey time increases and queue lengths at this crossing even if the existing station is closed (IR 2.4 and IR 4.62).

### Impacts on Air Quality

32. NR contends that there would be no significant air quality effects arising from the Scheme primarily based on the conclusions of both their original and updated



Environmental Impact Assessment Screening Opinion Requests and that no air quality issues have been raised by Environmental Health teams. The Secretary of State notes the Inspector's assertion that although the Applicant's Screening Opinion Requests rule out the need for a full EIA on the basis of it being unlikely that the Scheme would cause significant environmental effects in terms of air quality, the Inspector was of the view that this does not necessarily mean that it would not give rise to perceptible, adverse air quality effects, albeit of a level not warranting a full EIA (IR 3.30 and IR 4.65).

33. NR's Screening Opinion Request for Waterbeach concludes that, "...no increase in traffic numbers will result and so the impacts, albeit different would not be considered to increase significantly and so the effects would be considered Minor in terms of magnitude". However, the Inspector highlights that while that might be the case based on the current maximum queue length of 37m the conclusion of the Screening Opinion fails to take into consideration the forecast peak hour queue length of an average of 214m and a maximum of 562m. This could result in queues stretching from Waterbeach crossing back along Clayhithe Road, Station Road and Chapel Street and these roads are closely bounded by numerous residential properties (IR 4.68 and IR 4.69).

34. The Secretary of State agrees with the conclusions reached by the Inspector that he was not persuaded the air quality impacts of the Waterbeach level crossing upgrade would be only minor in terms of magnitude, as concluded by the EIA Screening Opinion Request. In the absence of further detailed evidence, the Inspector found it difficult to reach a definitive conclusion, although there is nothing to indicate that the effect would be such that a full EIA is warranted. Nevertheless, the extent of, and increase in the likely queueing traffic at the crossing, combined with the close proximity of residential properties, the Secretary of State agrees with the Inspector that this is likely to result in moderate localised adverse effect in terms of air quality (IR 4.71).

### **Impacts on sites of special scientific interest**

35. The EIA Screening Opinion Request process confirmed that the Scheme is not EIA development and that no Environmental Statement is required. NR also concluded that there will be no impact from the Scheme on any scheduled ancient monuments or listed buildings. The Inspector concurs with NR's conclusion that the Scheme would not have any material impact on designated sites and species including sites of special scientific interest ("SSSI"), or trees subject to tree preservation orders and listed buildings. The Secretary of State has no reason to disagree with this conclusion (IR 3.34 and IR 4.20).

36. The officer report for the Meldreth Road crossing planning application highlights that it is close to several designated sites (Shepreth L-Moor SSSI, Barrington Pit SSSI and Melwood Local Nature Reserve), but it concludes that no harm would result subject to conditions requiring compliance with mitigation measures as set out in the Ecological Impact Assessment being met. The Secretary of State agrees with this assessment (IR 4.20 and INQ-28).

### **The impact on the current owners and occupiers of the land to be acquired**

37. The Secretary of State notes that there are objections to the acquisition of a number of parcels of land necessary to implement the re-signalling works. In terms of parcels 003 and 004 at Meldreth Road (and set out in the objection from Mr A Parmee (OBJ-13) (IR

2.1)), the Inspector has no reason to dispute NR's statement at the Inquiry that any additional lighting will not be pointed at the objector's home. It was also noted that lighting will need to be restricted due to the presence of a bat corridor. The loss of vegetation which acts as a screening between the railway and the objector's home will be replaced by a fence. On the final point relating to disturbance from the proposed compound the Inspector was of the view that given the distance from the objector's property combined with its likely level of use, it would be unlikely to cause significant disturbance. The Secretary of State agrees with the conclusions of the Inspector that any limited effect of the re-signalling works on the objector and their property would be outweighed by the substantial benefits of the re-signalling element of the Scheme. (IR 4.24)

38. In terms of parcels 300, 305, 306 and 310 at Six Mile Bottom, and to the extent that they are needed for the re-signalling element of the Scheme (and set out in the objection from P and S Woodley (OBJ-22) (IR 2.2)), the Secretary of State understands that NR have agreed heads of terms with the relevant objectors to acquire these parcels of land subject to various mitigation measures. The Secretary of State notes that even if this agreement and the mitigation measures were not to materialise, he agrees with the Inspector's conclusions that the likely harm caused to these objectors, in terms of access, delays, safety, convenience, the ability to carry out maintenance and disturbance, would be clearly outweighed by the benefits to the wider community of the re-signalling element of the Scheme( IR 4.25).

#### **The impacts and interaction of the scheme with future planning developments including at Waterbeach New Town.**

39. It is noted that Waterbeach New Town Station (a relocation of the existing Waterbeach station) was granted planning permission in 2020 and is planned to be completed at the end of 2025. The Inspector sets out that other than indirectly, in relation to a proposed shuttle bus, there is no significant evidence to contradict NR's assertion that the Scheme would not have an adverse impact on the new development proposed including Waterbeach New Town. The Secretary of State agrees with these conclusions (IR 3.36, IR 4.20 and APP-W4-3, paragraph 8.1.2).

40. The Fen Line Users Association advise that the Waterbeach level crossing will be used by a shuttle bus, linking the station with the Cambridge Research Park and New Town. It is noted by the Inspector that unless and until Waterbeach station is relocated, it seems likely that traffic queues are likely to result from the level crossing upgrade. The Secretary of State agrees it would have the potential to adversely affect the reliability of this shuttle bus service and the ability for passengers to efficiently connect with railway services from the Research Park and New Town (IR 4.63).

#### **The effects of the scheme on statutory undertakers, statutory utilities and other utility providers**

41. Noting that no objections have been made by statutory undertakers, statutory utilities or any other utility providers and that the rights of statutory undertakers are protected by articles 3(4) and 13 of, and Schedule 6 to, the Order, the Secretary of State agrees with the Inspector that the scheme would not compromise the ability of Statutory undertakers to carry out their functions and obligations (IR 3.37 and IR 4.18).

## **Compulsory Purchase**

42. The purpose of the Order is to enable the construction and operation of a scheme of re-signalling of the railway in the Cambridge area and to upgrade seven level crossings at Meldreth Road, Six Mile Bottom, Dullingham, Milton Fen, Waterbeach, Dimmock's Cote and Croxton. In addition, the Scheme also includes the provision of an equipment building and associated access at the Foxton level crossing and access to the railway at Long Road. To facilitate this the Order would authorise the compulsory acquisition of land and rights over land, including temporary acquisition of land (IR 1.2 and IR 1.3). The Secretary of State therefore must be satisfied that the following tests for justifying compulsory purchase powers contained in paragraphs 12-15 of the Ministry of Housing, Communities and Local Government (now the Department for Levelling Up, Housing and Communities) 'Guidance on Compulsory purchase process and the Crichel Down rules' will be satisfied:

- (a) whether there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use land for the purposes of the Scheme.
- (b) whether the purposes for which the compulsory purchase powers are sought are sufficient to justify interfering with the human rights of those with an interest in the land affected (having regard to the Human Rights Act 1998);
- (c) whether there are likely to be any impediments to NR exercising the powers contained within the Order, including the availability of funding;
- (d) whether all the land and rights over land which NR has applied for is necessary to implement the scheme.

## **Compulsory Purchase for Re-signalling**

43. Objections were received regarding the acquisition of a number of parcels of land necessary to implement the re-signalling works. In terms of parcels 003 and 004 at Meldreth Road, the Secretary of State concludes that the substantial benefits of the re-signalling element of the Scheme clearly outweigh any limited effect on the objector and their property as already considered at paragraph 37 (IR 4.24).

44. NR has agreed heads of terms with the relevant objectors to acquire land parcels 300, 305, 306 and 310 at Six Mile Bottom, subject to mitigation measures which are needed for the re-signalling element of the Scheme (IR 3.39). The Inspector is of the view that even if the agreement and mitigation measures were not to materialise, the harm caused to objectors in terms of access, delays, safety, convenience, the ability to carry out maintenance and disturbance would be clearly outweighed by the benefits to the wider community. The Secretary of State agrees that there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use the land for the purposes of the re-signalling element of the Scheme. The benefits of this element of the Scheme are sufficient to justify interfering with the human rights of those with an interest in the land affected by the compulsory acquisition powers sought, having regard to the Human Rights Act 1988 (IR 4.25 and IR 4.26).

## **Compulsory Purchase for Level Crossing Upgrades**

45. The element of the Scheme relating to level crossing upgrades has the aim of improving safety at Meldreth Road, Six Mile Bottom, Dullingham, Milton Fen, Waterbeach, Dimmock's Cote and Croxton. To achieve this aim NR are seeking to: (i) permanently

acquire, (ii) permanently acquire rights over, (iii) temporarily acquire, (iv) temporarily acquire rights over and (v) extinguish public and private rights of way over, various parcels of land. The arguments for each of the level crossings are considered below against the 'Guidance on Compulsory purchase process and the Crichel Down rules' detailed at (a) to (d) at paragraph 42.

### **Croxton and Dullingham**

46. The Secretary of State notes that regarding Croxton and Dullingham, there are no outstanding objections, the impact on road traffic is likely to be limited and, at Croxton, the upgrade would allow for an increase in railway line speed from 40mph to 90mph. Therefore, the Secretary of State agrees with the Inspector's conclusion, that there is a compelling case in the public interest to justify NR powers to compulsorily acquire land at both these locations for the purposes of the level crossing upgrade elements of the Scheme. The purposes of these elements of the Scheme are sufficient to justify interfering with the human rights of those with an interest in the land affected by the compulsory purchase powers sought having regard to the Human Rights Act 1998. Further there is nothing which would prevent not stopping-up the sections of the road identified in the Order to enable this element of the Scheme, at Croxton, to be implemented (IR 4.86).

### **Dimmock's Cote**

47. The Secretary of State notes that there would likely to be a significant adverse impact on road traffic in terms of increases to journey times and average queue length increase (IR 4.53) but that there are no objections to the proposals at Dimmock's Cote. The Inspector therefore concluded that in light of this, there is a compelling case in the public interest to compulsorily acquire and use land at this location for the level crossing upgrades elements of the Scheme. The purposes of this element of the Scheme are sufficient to justify interfering with the human rights of those with an interest in the land affected by the compulsory purchase powers sought, having regard to the Human Rights Act 1998 (IR 4.87). The Secretary of State agrees with this conclusion.

### **Milton Fen**

48. In respect of Milton Fen the Secretary of State is aware of the objection raised in relation to the potential for increased waiting times for pedestrians waiting behind the fully automated barrier at this location (IR 2.57). The Inspector concluded that the moderate safety benefits of the Scheme outweigh the limited harm caused in relation to pedestrian delay, and further concluded that there is a compelling case in the public interest to compulsorily acquire land at this location for the purposes of the level crossing upgrade element of the Scheme. The Secretary of State agrees with this conclusion and is also of the opinion that there is nothing which would justify not stopping up the sections of street identified in the Order to enable this element of the Scheme, at this location, to be implemented (IR 4.88).

### **Six Mile Bottom**

49. The Secretary of State notes that there was one objection raised in relation to Six Mile Bottom, around the increased journey times for the residents of the property located

in close proximity of the crossing. Concerns were also raised in relation to likely noisier and brighter crossing signals (IR 2.2). However, the Secretary of State agrees with the Inspector's conclusions that journey times are not likely to increase significantly, as documented at Table 2 (IR 4.51). While the length of traffic queues at the crossings would be likely to increase significantly for these particular residents, the Inspector could not envisage this would be likely to materially exacerbate any problems which already existed as a result of existing queuing at the crossing. The Inspector also concluded that any disturbance from the upgraded crossing caused by noisier and brighter crossing signals would be minimal. Given the moderate safety benefits of the Scheme at this location, the Secretary of State agrees there is a compelling case in the public interest to justify conferring on NR powers to compulsorily acquire and use the land for the purposes of upgrading the level crossing at this location. He further agrees that the purposes of this element of the Scheme are sufficient to justify interfering with the human rights of those with an interest in the land affected by the compulsory purchase powers sought, having full regard for the Human Rights Act 1998. Additionally, the Secretary of State is also of the opinion that there is nothing which would justify not stopping up the sections of street identified in the Order to enable this element of the Scheme, at this location, to be fully implemented (IR 4.89 and IR 4.90).

### **Meldreth**

50. It is noted that while there are no objections from anyone with a direct interest in the land to be acquired, there have been many objections from individuals, two Parish Councils and the local Community Rail Partnership in respect of Meldreth (IR 2.1 and IR 2.18 to IR 2.56). The objections raise concerns around lack of data on accidents at the crossing, with the objectors believing the barrier upgrade proposal cannot be justified on the grounds of poor safety (IR 2.1, IR 2.39 and IR 2.56). Concerns were also raised regarding the substantial increase in traffic delays from the upgraded barrier. As referenced at Table 2, average journey times could increase 138% and average queue lengths increase by 375% (IR 4.55 and Table 2). The Inspector noted that no objection has been received in relation to the Meldreth level crossing from either the District or County Councils and that the former granted planning permission for the works at Meldreth Road. The Secretary of State however agrees with the conclusions reached by the Inspector that the moderate safety benefits of the Scheme at this location do not outweigh the significant adverse impact likely to be caused for road users. Accordingly, the Secretary of State concludes there is not a compelling case in the public interest to confer on NR powers to compulsorily acquire and use the land at this location for the purposes of the level crossing upgrade. Also, the stopping-up of sections of the street to enable this element of the Scheme at this location to be implemented is not justified (IR 4.91 to IR 4.92).

### **Waterbeach**

51. The Secretary of State is aware that while there are no objections from anyone with a direct interest in the land to be acquired, there have been concerns raised by individuals and an organisation representing rail users of the Cambridge – King's Lynn Line in respect of Waterbeach regarding the significant delays due to the proposed barrier upgrade. The objectors focused on unacceptability of delays likely to be caused to people getting the train from Waterbeach station and of the increase likelihood of people missing trains and of them

choosing to travel by car for their whole journey instead. The Inspector shared those concerns and also concluded that significant delays are likely to be caused to traffic along Clayhithe Road, Station Road and Chapel Street as a result of the increased barrier downtime which also has the potential for moderate localised adverse air quality effects for the residents of these roads as a result of queuing traffic (IR 2.3 to IR 2.17 and IR 4.93).

52. The Secretary of State shares these concerns and is aware there is no definitive timescale available on when, or if, Waterbeach station will be relocated. However, he agrees with the conclusions reached by the Inspector there is no evidence to demonstrate that the relocation of the station would have any significant impact in reducing the forecast traffic queues likely to be caused by the crossing upgrade. The Inspector noted that there is no objection to the crossing upgrade from either the District or County Councils but, notwithstanding this, concluded that the moderate safety benefits of the Scheme would not outweigh the harm that the Inspector found the upgrade would be likely to cause. It is for this reason that the Secretary of State, agreeing with the Inspector, concludes there is no compelling case in the public interest to confer on NR powers to compulsorily acquire and use the land for the purposes of the level crossing upgrade elements of the Scheme at this location (IR 4.94).

### **Impediments to Compulsory Purchase**

53. The Inspector formed the view that Level Crossing Orders under the Level Crossings Act 1983 are likely to be required for each of the level crossing upgrades (IR 1.13). The Inspector set out that the outstanding Level Crossing Orders which would be required to enable the level crossing upgrades to take place are a potential legal impediment to this element of the Scheme (IR 4.98). Both NR and the Office for Rail and Road ("ORR") were consulted following receipt of the Inspector's report, so the Secretary of State could be assured there would be no impediments to the exercise of the compulsory purchase powers as a result of the need for Level Crossing Orders.

54. Extensive consultations between NR and ORR have taken place and the Secretary of State has received reassurance that the need for the Level Crossing Orders in connection with the proposed level crossing upgrades in the Scheme is not an impediment to the implementation of the Scheme.

55. It is noted that there is no, in principle, objection to the resignalling element of the scheme and it is clear that it would give rise to substantial benefits to the wider community as a result of ensuring the ongoing reliability and efficiency of the railway network in the Cambridge area and beyond. The Secretary of State notes that these benefits would clearly outweigh the limited harm likely to result to the small number of people who would be affected by these works. He further notes the purposes of the Scheme are sufficient to justify interfering with the human rights of those with an interest in the land affected by the compulsory purchase powers sought, having regard to the Human Rights Act. The Secretary of State accepts the Inspector's conclusion that, with the exception of the crossings to be excluded from the Order, there is a compelling case in the public interest to justify compulsory purchase, that funding to the total estimated costs of £193,449M is likely to be available in a timely manner (IR 3.42), that the use of compulsory purchase is required to allow NR to complete the Scheme in a timely manner, and that there are no impediments to the Scheme's implementation.

## **Land Rights**

56. The Inspector concluded that despite a number of objections, delays to pedestrian waiting times and impacts on road traffic, the moderate safety benefits of the proposals at Six Mile Bottom, Croxton and Dullingham, Dimmock's Cote and Milton Fen would outweigh the harm identified for the respective crossings. The Secretary of State agrees with the Inspector's conclusion that there is a compelling case in the public interest to justify the need for NR to compulsorily acquire and use land at these locations for the purposes of the level crossing upgrade elements of the scheme at the above locations.

57. The Secretary of State agrees with the Inspector's conclusion that, due to the unacceptability of the delays and lack of evidence showing a high number of accidents at the Meldreth and Waterbeach crossings, there is no compelling case in the public interest to justify NR compulsory acquiring and using land for the purpose of the Scheme at these locations (IR 4.92 and IR 4.94).

## **The outcome of the two planning applications currently being considered by the local Planning Authority**

58. It is noted that in terms of the planning applications (Meldreth Road and Hauxton) waiting to be determined at the time that the Statement of Matters was published by the Secretary of State that both have now been approved. The Secretary of State notes that consent has been secured for all elements of the Scheme which require planning permission and prior approval has been secured and prior notification carried out for those elements which are permitted development subject to prior approval or prior notification. (IR 4.15).

59. The Secretary of State agrees there is no planning impediment as NR has planning permission to carry out the upgrades at all level crossings (IR 3.43 and IR 3.44).

## **Whether all the statutory procedural requirements have been complied with**

60. The case for compliance with the statutory procedural requirements has been set out in IR 1.18 to IR 1.20, IR 4.3 to IR 4.5 and paragraphs 8 to 10 above. The Secretary of State agrees with the Inspector that all the statutory procedural requirements have been complied with in promoting the Order.

## **Any other matters which may be raised at the Inquiry which may be important and relevant to the Secretary of State's decision.**

61. The Secretary of State notes the Inspector's consideration that there are no other matters of relevance to the Order which are not already addressed in his report and concurs with that consideration (IR 4.78).

## **Secretary of State's overall conclusions and decision**

62. The Inspector concluded that the Order should be made for the re-signalling element of the Scheme. He further recommends that in relation to the level crossing upgrades at Croxton, Dullingham, Dimmock's Cote, Milton Fen and Six Mile Bottom the Order should

be made, if the Secretary of State is satisfied that it is likely that he, or the Office of Rail and Road on his behalf, is likely to make the necessary Level Crossing Orders for each of these upgrades. As such assurances have been obtained the Secretary of State concludes these elements of the Scheme should **be included** in the Order to be made.

63. With regard to the level crossings upgrades at Meldreth Road and Waterbeach, the Inspector recommends that these elements of the Scheme should **not be included** in the Order to be made.

64. The Secretary of State has had regard to all matters set out above and has determined in accordance with section 13(1) of the TWA to make the Order under sections 1 and 5 of the TWA, subject to the exclusion of the level crossing upgrades at Meldreth Road and Waterbeach, and subject to minor drafting amendments which do not make any substantive changes in the proposal such as would require notification to the affected persons under section 13(4) of the TWA.

### **Modifications to the draft Order**

65. The Secretary of State is making a number of minor textual amendments to the Order in the interests of clarity, consistency and precision. Additionally, the Secretary of State is making the following textual amendments. He considers that none of these changes materially alter the effect of the Order.

- The definitions of 'address' and 'electronic communication' are only referenced in article 15 (service of notices) and so have been moved to that article.
- In the definition of the term 'planning permission' the reference to Six Mile Bottom in sub-paragraph (a)(i) has been removed because in paragraph 1.10 of the Inspector's report it is shown as permitted development that is subject to Prior Notification.
- The definition of 'tribunal' is only used in article 10 (disregard of certain interests and improvements) and so has been moved to that article.

### **Notice of determination**

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

### **Challenge to decision**

67. The circumstances in which the Secretary of State's decision may be challenged are set out in the note to the Annex of this letter.



**Distribution**

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

Yours faithfully

**Natasha Kopala**

## **ANNEX A**

### **RIGHT TO CHALLENGE ORDERS MADE UNDER THE TWA**

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

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

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

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