

# WIVENHOE TOWN COUNCIL

Town Mayor: Cllr. Asa Aldis ~ Town Clerk: Antoinette Stinson

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Secretary of State for Transport,  
c/o Transport and Works Act Orders Unit,  
Department for Transport,  
Zone1/18,  
Great Minster House,  
33 Horseferry Road,  
London SW1P 4DR

21 April 2017

Dear Sir,

**re: E41 Paget Road Wivenhoe and E42 Sand Pit Alresford pedestrian crossings.**

This is a letter of objection to the proposed closure of the foot crossings **E41 Paget Road** (usually mis-spelt 'Padget' or 'Pagets' by Network Rail (NR)) and **E42 Sand Pit**. E42 is discussed separately at the end.

It is also a request for a public inquiry into the proposed closures to be held by the Secretary of State (SofS), from Wivenhoe Town Council (WTC), on behalf of the residents of Wivenhoe, which is fully supported by the Borough and County Councillors.

A detailed submission was made at the time of the first Consultation Exercise in June 2016. NR did not respond. The views of WTC and the majority of residents remained extant at the time of the second Consultation last September and are elaborated in this letter.

## **PAGET ROAD IN THE CONTEXT OF THE NR LEVEL CROSSING CLOSURE PROGRAMME**

Data submitted to NR shows that **opposition to the closure of E41 was greatly in excess of that to any of the other proposed closures in Essex**. The NR figure of 50 responses for E41, of which 49 were opposed to closure, relates purely to those who filled in the official forms at the June 2016 exhibition a remote location in north Colchester or online. The actual volume of opposition is of course much higher. NR refused a request from our MP Bernard Jenkin to hold an exhibition/meeting in Wivenhoe given that it was clear that this case would be far more controversial than the great majority of proposals.

Additionally, the summary table of objections submitted by NR to the Department excludes all those made by letter or email (including those from WTC). As the official form was unsuited to those making detailed comments, NR has omitted all of the most significant responses received, when submitting its Draft Order to the Department.

The railway line here opened on 8<sup>th</sup> January 1866 and the crossing continued with a problem-free existence until NR conceived its current programme of foot crossing closures in East Anglia in 2012.

NR has accepted that, whilst the path over the crossing is not on the definitive map, it has to be accepted as a public right of way legally, because of the unchallenged *de facto* right of user over a century and a half. In the case of a footpath over a railway line, the presence of the boarded crossing and gates, provided by the railway itself, provides 100% evidence of the landowner's acceptance of the existence of a right of way. This is supported by statutory declarations sworn by residents.

### **THE RELEVANCE OF NR's GENERAL OBJECTIVES TO PAGET ROAD**

The documents submitted by NR to the Department in support of the crossing closures do not include any rationally-argued case for the closure of each individual crossing. Hence, it is difficult to see how the SoS can be in a position to make any rational decision on which closures should or should not be confirmed.

NR has only presented generalised arguments to support a programme of foot crossing closures at large. WTC submits that **each individual case should be considered on its own merits**, as would happen when a single footpath closure is proposed under the normal procedure of the Highways Act 1980 by the County Council. This because not all the general arguments for a crossing closure programme will apply in each individual case.

Therefore, it is necessary to consider the extent to which NR's general arguments actually apply in the case of Paget Road. s.15 of the NR 'Statement of Aims' summarises the overall claimed benefits as:-

- A. Improving the safety of level crossing users, railway staff, and passengers.
- B. Creating a more efficient and reliable railway.
- C. Reducing the ongoing operating and maintenance cost of the railway.
- D. Reducing delays to trains, pedestrians, and other highways users
- E. Facilitating capacity and line speed increases on the network in future.

**A. Improving the safety of level crossing users.** It is indeed possible to improve the safety of 'people on a level crossing' by abolishing the level crossing!

However, the safety of the alternative routes must be considered also. Many of those currently using the crossing will have to use the High St railway bridge instead, which they would in practice do on the east side with its very narrow pavement requiring walking in the roadway.

In NR's 'design responses' to the June consultation comments, it is claimed that 'there are proposals for some roadway widening in the High Street', but nothing specific on this is shown on the map in the Draft Order. Moreover, Essex Highways objection on road safety issues from the use of the bridge brought the NR response that *'the road safety audit has not revealed any issues'!*

Essex Highways has for several years wanted to widen the pavement on the upper half of the bridge as the entrance feature to the 20mph Zone. NR has not objected to the proposal, but refused to enter into a legal agreement that would allow the proposal to proceed. Also the pavement at the bottom end of the bridge cannot be widened as longer vehicles have to swing here to/from Station Road.

**B. Improving the safety of railway staff and passengers.** This only applies to vehicle crossings where there is the opportunity for train/vehicle collisions to derail trains – particularly private user crossings and public open / half-barrier crossings.

**C. Reducing the ongoing operating and maintenance costs of the railway.** The costs of foot crossings are minimal. In any case, if the railway has been obliged, whether by statute or by private agreement, to install a crossing as a condition of being allowed to build the line, it is not legitimate for the costs of maintaining the facility to be used subsequently as an argument for eliminating it, save in cases where usage has proved to be extremely minimal.

[It is to be noted that since initiating the closure schemes in 2012, NR has spent unprecedented amounts of money at Paget Road, completely reconstructing the crossing and approach paths and installing 'automatic horn' equipment. Should the issue of costs become raised in the consideration of the proposed closure, NR must be asked for cost figures for the 'normal' years prior to 2012].

**D. Reducing delays to trains.** Prior to 2014 there were *no* delays to trains caused by this crossing. The speed limit at this point, 50mph both ways for multiple units and 30 up / 35 down for the few other trains, was necessitated by the curvature of the line, and the vast majority of the trains stop at the nearby Wivenhoe station anyway.

However in 2014 NR imposed Temporary Speed Restrictions of 15mph up / 20mph down \*\* which was claimed to be necessary for the safety of people using the crossing. If that were really the case then successive managements of the railway must have been grossly irresponsible in allowing much higher speeds for so many years! Not surprisingly, there is a local suspicion that the new restrictions were introduced to create a 'problem' to which closing the crossing was the 'solution'.

The main impact was on up trains, however in March 2017 the up restriction was removed, following the installation of 'automatic horn' equipment. The down



restriction is still in place, on the basis that it has to be continued because the whistle board and the new automatic horn activator device for down trains are only 160m from the crossing. NR claim that it is 'not possible' to move them further out, but it is unclear why they cannot be at the end of the platform.

**E. Reducing delays to pedestrians.** This only applies when a crossing with gates and / or very frequent trains is replaced by a road bridge adjacent.

**F. Reducing delays to other highway users** is irrelevant here.

**G. Facilitating future line capacity increases.** Foot crossings do not reduce line capacity *per se*. This line is capable of accommodating many more trains, or would be if the pinch-points at Colchester Town St Botolphs and Thorpe-le-Soken were dealt with. In any case, successive railway managements for the last forty years have been adamant that they will *not* provide additional trains on this line (in contrast to most other lines in the region) and there is no sign of this changing.

**H. Facilitating future line speed increases.** The permanent line speed limit of 50mph through Wivenhoe cannot be increased due to the curvature of the track. In any case as almost all trains stop at Wivenhoe there would be no point in an increase, from which only the few trains not carrying passengers would benefit.

\*\* Correspondence with NR in 2014 revealed that the down restriction is actually meant to be 25mph, but 'the 20mph board was placed there due to there being no stock of 25mph boards (!!). Arrangements are being made for the board to be replaced, but it was all that was available when the need for the speed restriction was identified'. It is still there three years on, slowing down trains *more* than NR calculates to be necessary, all because they are no longer capable of making a board with the number '25' on it!! (5mph is not much, but it scarcely suggests an organisation concerned to avoid losing time. They have also taken no action on the long standing 30 restriction at Wivenhoe Woods).

## AMOUNT OF USAGE

NR provided us in 2014 with a tabulation of usage figures derived from a 'covert camera survey' taken 5-15.10.2012. As the 5<sup>th</sup> and 15<sup>th</sup> were part-days only, the figures for the 6<sup>th</sup> to the 14<sup>th</sup> will be quoted. The average daily use on these nine days was:

Adult pedestrians	61
Child pedestrians	0.4
Cyclists	0.1
Dogs	6

These figures demonstrate that the numbers of the 'most vulnerable' users – children, people with dogs, and cyclists – are very low. (Cyclists have to dismount and lift the bike over the gates). It is evident (as it is from one's own personal experience) that people avoid the crossing when with children, and tell their children not to use it on their own. Most users are single adults.

At the second consultation in September 2016, NR revealed figures from another survey by CCTV undertaken on a Saturday Sunday and Monday in 'June and July' 2016. Totals only were given, being 206 users on 'Saturday and Sunday combined',



and 227 on the Monday. These are scarcely relevant to the 2012 figures and seasonal variation is unlikely to be that great.

WTC does not propose to undertake its own surveys, which would be extremely labour-intensive, as it is clear that the number of users is such that closure cannot be justified either on the grounds of minimal usage or on the grounds of a very high usage making accidents too likely.

## SAFETY AND SIGHTING DISTANCES

In 2014 NR sent letters to selected immediate-vicinity residents asking if they would support closure of the crossing (and claiming that the trains ran at 75mph here!). Having thus been alerted to the closure proposal, we engaged in email correspondence with NR in order to establish why Paget Road was considered to be 'unsafe' and in need of abolition, when some other foot crossings both locally and regionally were deemed safe.

The initial argument for a foot crossing closure programme nationally had been that on main lines there had been increases in train speeds over the years to 100/125mph, yet unprotected foot crossings still remained. In contrast at Paget Road there had been no increase in the speed of trains in the last decades \*, and there has also been a *reduction* in the *number* of daily trains since the 1960s.

The NR response was that under their standard methodology, a line speed of 50mph required that crossing users must be able to see the front of a train when it was 254m away, in each direction, but that at Paget Road 'the available sighting of up trains from the up side is just 80m, and of down trains from the down side 160m'. The 80m distance was based on the fact that an up 'light engine' would (after being visible when further off) very briefly disappear from view behind the south abutment of the Anglesea Road over bridge.

It was pointed out that there are in fact no light engines on this line, except once in a very blue moon in connection with engineering trains or dead units being loco-hauled to Clacton: all the trains that *do* regularly exist are at minimum of 4-car length and can be seen continuously from more than 300m away. (It was also apparent that the 15mph TSR delaying up trains was based on this 'light engine fallacy').

No further comment was received from NR, so it was concluded that the 'light engine' rationale must have been given up. However eighteen months later, in a letter to the Wivenhoe Town Clerk after the first consultation, they came up with entirely different arguments on users' sighting of up trains:

*'We have long had safety concerns at Pagets [sic] due to issues with siting [sic] at the crossing.....An 8-car train disappears from sight for a very short period when [a person intending to cross is] standing at the 2 metre decision point. A user must not have an obstructed view of the front of the train, from when it comes into sight until it passes the crossing'.*

*'The sighting is also mitigated by the whistle boards [we think this is meant to mean 'although the sighting is poor, the sounding of the train horn provides a further warning'] as (sic) the drivers only blow the horn at whistle boards between 0700 and 2300. Pagets crossing has a relatively high number of users outside of these times, this means that the whistle boards are not mitigating the insufficient sighting'.*

This is based on the standard NR assumption that a person looks right and left when 2m from the nearest rail. The reality at Paget Road south side, is that people look right when around 1.8-1.6m off, and by 1.6m they can see the front of the train continuously. The state of vegetation growth also affects the observing point.

In any case it is quite untrue that an 8-car train 'disappears from sight' at 2.0m (a 4-car train does not either); this is no doubt why NR referred to light engines only in their initial argument.

There is no obligation on other parties to accept NR's view that it is dangerous if the front of the train is hidden from view (even for a couple of seconds only) in cases where the rest of the train remains highly visible. This argument might have more force in cases where the rest of the train can only be seen at a narrow angle, or where the background does not make the train stand out.

With regard to the allegedly-high night time usage, the 2012 figures showed a mean of only 3 night users over the fully-surveyed dates (there was an aberrantly high figure on one of the part days). Since then the horn-sounding hours have since December 2017 been increased to 0600-2400, and the automatic horn has been installed which sounds throughout. There are in any case no passenger trains between 0025 and 0538. Therefore this supposed extra danger is virtually non-existent.

With regard to the sighting of the down trains from the down side, the down trains [in the 'normal' situation without the present temporary restriction] are not travelling at 50mph at the point where they become visible, as they are still accelerating away from the station stop. Taking their actual speed more realistically as 25mph at the High St bridge and 40mph by Paget Road, averaging 30-35mph, town stated sighting required distance of 160m.

As to the overall safety situation here, NR argue that the crossing 'scores C4 on the ALCRM system, showing a relatively high risk of injury to an individual using the crossing' – although they admitted a few lines later in the same email that this crossing 'has a pretty good safety record'! (and indeed NR's own calculations only claim the likelihood of one fatality every 200-1,000 years). Of the fact that there has been no fatality here in 150 years, they could only comment that *'the fact that there has not been a fatality at this crossing does not mean that there never will be'*.\*\* It might be noted that the recent Parliamentary Select Committee on Transport report on level crossings criticised the way in which ALCRM makes the assumption that there is no reduced likelihood of accidents on lower-speed lines.

If one takes the 60 average daily users of the 2012 survey and extrapolates that over the 150 years of the crossing's existence, it produces a figure of over 3 million users

without a fatality. This of course is not 'scientific' but it gives an idea. (There were probably more users during the shipyard's active days, whereas in the C19 there were fewer trains). If one took the 200+ weekday daily users of the 2016 survey, the total would be 10 million. Clearly this is a much 'safer' place than the inside of one's own home! Even if there *were* to be a fatality in the future, it would still not prove that the crossing is a 'dangerous' place compared to the world at large.

\* The speed limit through Wivenhoe was 40 mph until c.1980 and was then increased to 50 [altered between 1978 and 1982 Appendices]. However in 1984 all the London trains began stopping at Wivenhoe, reducing the speed of down London trains at Paget Road. Since then differential limits have been introduced of 30 up /35 down for non-multiple unit trains.

\*\* Subsequently NR started claiming that there *had* been a fatality here in the 1900s. This turned out to be a badly researched reference to a well-recorded incident at Wivenhoe *station* in 1909 when a girl was dragged under a departing train.

## **NOISE HARASSMENT OF WIVENHOE RESIDENTS BY NR**

At the time of the first consultation exercise in June 2016 there was a sudden massive increase in the noise made by the train horns at the whistle boards. Previously there had been a very appropriate 'be-bop' noise which had not caused any annoyance to residents. This was now increased to a loud blast for 3-4 seconds, which wakes people up ¼ mile off and can be heard nearly a mile away. Not surprisingly it was assumed by people that this change occurring at the same time as the consultation was a deliberate attempt by NR to try to get people to support the closure of the crossing to stop the noise.

However NR representatives at the exhibitions flatly denied that changes in train horn noises could possibly be anything to do with NR. But when a noise nuisance complaint was made to the Borough Council, the reply from Abellio stated that 'there has been a recent change to the horn sounding following complaints from the Office of Road and Rail and Network Rail....' This was confirmed by both the ORR and NR at their site visit'.

The train horns are still being sounded even though the automatic horn equipment is now in use. This is said to be necessary because the automatic equipment only has a 95% reliability record.

## **PROPOSED NR 'ALTERNATIVE ROUTES' AND OTHER WORKS**

The short section of additional footpath proposed between Paget Road north side and Phillip Road would be a useful addition to the local path network, especially in the context of the doctors' surgery being about to move to Phillip Road. It would however be quite irrelevant to the north-south journeys of most of the current crossing users.

Although s.13 of the Draft Order requires the *alternative routes* to be opened before any crossing can be closed, it contains nothing *requiring* the construction of the *other* proposed works that NR has talked about as possible alternatives. NR is *empowered* to undertake them but not obliged to. In any case it is not even specified what these works are to be – there are merely maps showing (in the case of Paget Road) that NR



seeks the right to do *unspecified* things in the High Street. The possible nature of the works is mentioned only in the NR responses to objections made at the consultation exercises and only in indefinite terms.

There are references to widening the pavements in the High Street, but not in specific places; and these are not related to Essex Highways plans.

It is unacceptable that an Order should be made with such vague terms in it.

## NEED FOR A PUBLIC INQUIRY

Under the normal Highways Act 1980 procedures for extinguishing footpaths, a public inquiry would be required if there were *any* outstanding objections. NR claim that they cannot use the HA powers here because (a) the great number of crossing closures would swamp the County Council's ability to process them, and (b) only under the TAW Act can they be empowered to construct alternative routes. Under the TAW Act procedures only a *statutory* objector can insist on an inquiry. However it would be wrong for other objectors to be treated worse purely because it happens to be *more convenient for NR* to use one channel rather than another.

Secondly, NR has repeatedly informed the public that there **WILL** be a public inquiry before an independent inspector (see e.g. Attachment which was handed out at the time of the first consultation). It is unclear to us whether this very definite statement is the result of their having had discussions with the Department prior to the start of the process, with the Department having undertaken that this will be the case. (In which case this needs to be specifically confirmed by the Department itself without further delay). If NR have been saying this without Departmental approval, it represents a considerable impropriety on their part, given that it is for the SofS to decide whether to hold an inquiry or not, not the applicant.

**Nevertheless the fact is that this undertaking HAS been given by NR, so if it were now to be announced that no inquiry will be held, it would result in well-founded accusations that the public had been misled, which would be directed towards the SofS as much as to NR.**

Thirdly, NR has not presented the SofS with an argued case for the closure of any of the crossings individually, making it impossible for the SoS to reach a rational decision unless the pros and cons, in each case where there are outstanding objections, are teased out properly by an in-depth questioning. The 'evidence' extracted by ourselves from NR so far contains inconsistencies and illogicalities.

It would appear from the Draft Order that the number of crossings where there are outstanding objections will be very small, so the inquiry would not need to be lengthy and it should certainly include E41, and E42.

## DECISION

NR is entitled to use its own methodology for the calculation of the relative safety of different crossings (and indeed the railway ought to have shown more interest in this at an earlier date). However by the 'inflation' of what constitutes 'danger', NR has been seeking to make the case that the majority of crossings are 'dangerous' (irrespective of their never having been in any way dangerous in practice), instead of merely using it as a ranking device.

**WTC trusts that the SofS in deciding whether to approve or not each closure in the order must take account of all the evidence in the case and not allow technical methodology to outweigh the facts on the ground, the convenience of the facility and the risks associated with the alternative routes.**

### **POSSIBLE IMPROVEMENTS IF THE PAGET ROAD CROSSING REMAINS OPEN**

The barriers on the south side are currently wrongly positioned a little too far from the track, and 'the wrong way round'. They ought to be located at the point where there is a full view and crossing users should stop (or almost-stop) to check if the line is clear, and they should be arranged to make people turn and look to the *right* i.e. the direction from where the train on the *nearer* track will be coming from. Instead they are set back at a position with no useful view, and arranged to make people turn and look left.

The north side barriers are correctly arranged to make people face the right, but they too are too far from the track, especially as the Covtec equipment now interferes with the view until one is 2.5m from the outer rail.

A 30 or 35mph restriction on all down trains from the east end of the station platform to just west of the crossing might be appropriate; this would not delay passenger trains by more than a few seconds, and only the few empty units would be slowed down further.

The Covtec equipment seems to have potential for *replacing* the over loud train horn sounding. It is understood that this is very new technology as yet. At the moment it is set to make only a single very brief and quiet noise.

If NR seeks to claim that the 'high' number of users is itself a source of 'danger', then it is incumbent upon them to provide a footbridge in lieu. This would almost automatically have been done in that situation in times past. However NR has made it clear that it will not provide footbridges at any of the crossings in the current Orders, or at least not at this stage.

Equality legislation has now created a situation where many new footbridges have to be ramped with 1/20 max gradients, with a cost of up to £1m, and meaning a very ugly steel structure of enormous length, such as would definitely not be desirable in this small-scale Conservation Area \* location.

The present crossing is not fully 'accessible' because of the gates and the barriers \*\*. In addition, most users could only get here if able to deal with the 1 in 9 gradients in Queens Road. A second-hand 'heritage' footbridge (on an elevated base to meet 25kV clearances) would in contrast fit satisfactorily; such bridges become available from time to time when stations have new footbridges with lifts installed.

\* The crossing is on the boundary of the current Conservation Area, but within the extension being processed by the Borough Council.

\*\* There is for obvious reasons no legal obligation for 'public footpaths' in general to be disability-compliant, the majority of them being in rural locations through fields / moorland /etc.

In summary, the core of the objection is based on the principle of connectivity. This underpins the cohesion of our community.

Wivenhoe is transected by the Colchester to Clacton railway line. The lower part of the town may only be accessed at five points across that railway line. There are the antiquated Victorian road bridges at the High Street and Anglesea Road, an iron footbridge at the railway station and a cattle duct some distance along the Wivenhoe Trail and outside the urban envelope, and there is the Paget Road crossing. None are really adequate for the demands of today's population and to lose the Paget Road crossing would place a further burden on the remaining crossing points.

Our community contends that the policy based arguments employed by NR to justify the proposed closure are a one size fits all solution to a situation that has unique characteristics. This proposal should be judged on the facts and its own merits, and not on vague policies. The benefit to NR is *de minimis* when compared to the inconvenience inflicted on our residents and the consequent erosion of community cohesion by its loss.

#### **E42 SAND PIT (COCKAYNES WOOD)**

This crossing is in Alresford outside the parish of Wivenhoe, however it is likely that many of the (relatively small number of) users are Wivenhoe people, and part of the proposed alternative route is within the parish.

This is another crossing which has led a problem-free existence, with straight track giving views as far as Alresford station to the east (1,000m) and just beyond Alresford road bridge to the west (c.400m).

The alternative route, in contrast, includes an extremely unsafe section over the Alresford Road railway bridge, where there are no pavements and no means of escape if vehicles appear in both directions at the same time.

Sighting of approaching vehicles is not good, especially those coming from the south, and traffic travels at high speed. If a wide vehicle (and there are many lorries and buses on this road) were to coincide with a car when a pedestrian was on the bridge, an accident would be very likely, not least because the vehicle drivers would be likely to 'panic'. NR's only suggestion is to reduce the speed limit to 40mph, which would mean 50mph still in reality.



We await confirmation that this letter will be placed before the SofS for his consideration.

Yours faithfully,



pp Antoinette Stinson  
Town Clerk, Wivenhoe Town Council

Co-Signed by:

Cllr Cyril Liddy (Colchester Borough Council)

Cllr Rosalind Scott (Colchester Borough Council)

Cllr Mark Cory (Colchester Borough Council)

Cllr Julie Young (Essex County Council)

Peter Hill (Wivenhoe Society)

Sandpit Crossing Comments endorsed by Cockaynes Wood Trust

*cc Bernard Jenkin MP*

*Will Quince MP*

*Cllr Edward Johnson Essex County Council Transport Portfolio Holder*

*Cllr. Mike Lilley CBC Transport Portfolio Holder*

*Mark Carne NR CEO Network Rail*

*Sir Peter Hendy Chairman Network Rail*

*Adrian Pritchard CE Colchester Borough Council*

*Frank Belgrove Chair Alresford Parish Council*

*Gary Scott Tendring District Council*

*Ian Davidson Tendring District Council*

*Simon Taylor Public Rights of Way Officer Essex County Council*





NORTH SIDE TO WEST (View of down trains from down side)

3.0m from rail. (Between the railings)

New Covtec equipment interferes with view

[ALL PHOTOGRAPHS OF  
PAGET RD mid-April 2017]







NORTH SIDE TO WEST

2.0m from rail. Full view.

(In practice people will look right when between 3.0 and 2.0m).







NORTH SIDE TO EAST (view of up trains from down side)

2.0m from rail.







SOUTH SIDE TO WEST (View of down trains from up side)  
From bottom railing. View prevented by untreated vegetation growth.







SOUTH SIDE TO WEST

2.0m from rail. Badly-positioned NR pole interferes with view.







SOUTH SIDE TO WEST

1.8m from rail. Full view.







SOUTH SIDE TO EAST (view of up trains from up side)

2.2 m from rail (by bottom railing). Poor view





SOUTH SIDE TO EAST

2.0m from rail. Full view to distance, see next picture for bridge area.







SOUTH SIDE TO EAST Telephoto view

2.0m from rail. Front of train could disappear for an instant but the remaining carriages would be readily visible at a broad angle.





SOUTH SIDE TO EAST Telephoto view

1.75m from rail. Inside rail of up line visible throughout, therefore at the worst point the l/h side of the front of the train would remain visible to the extent of 2ft 6in approx.

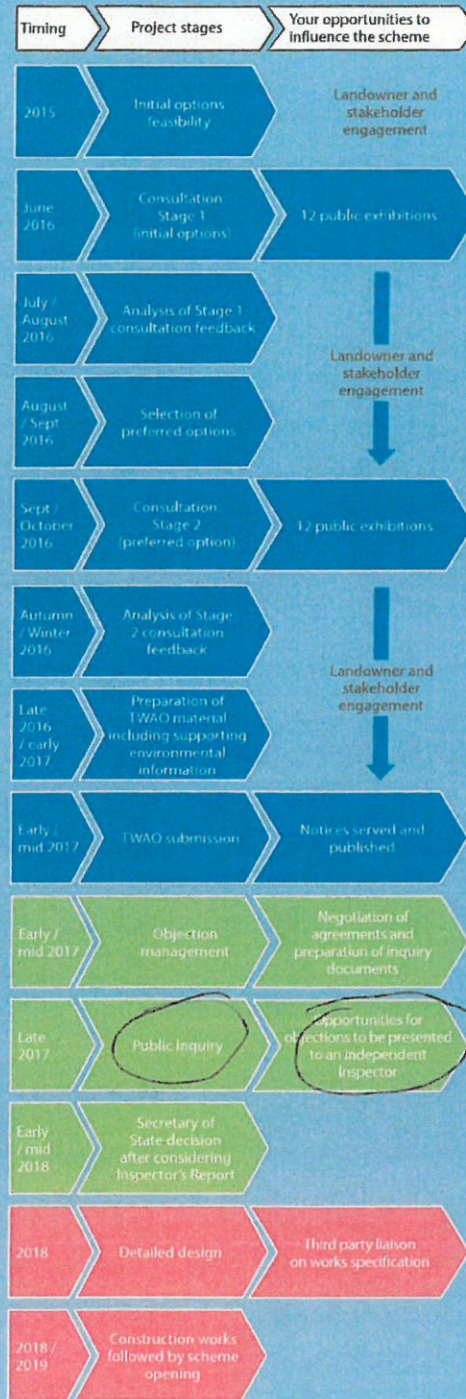
(Unable to photograph with a train there through fear of worrying drivers!)





# Transport and Works Act Order Process

## Anglia Level Crossing Proposals









SAND PIT TO EAST

Summer 2016 (rain)







SAND PIT TO WEST





ALRESFORD RD BRIDGE looking south

(googlecar view: not safe to photograph on foot).





**From:** Wivenhoe Town Council <wivenhoe\_council@btconnect.com>  
**Sent:** 02 May 2017 09:34  
**To:** chris.grayling.mp@parliament.uk; TRANSPORTANDWORKSACT  
**Cc:** cllr.eddie.johnson@essex.gov.uk; adrian.pritchard@colchester.gov.uk;  
simon.taylor@essex.gov.uk; cllr.cyril.liddy@colchester.gov.uk; 'Rosalind Scott'; 'Mark  
Cory'; 'Cllr Julie Young, Member CC'; cllr.mike.lilley@colchester.gov.uk; Andrea  
luxford-vaughan  
**Subject:** RE: FAO Secretary of State for Transport - letter objecting to proposed Network Rail  
level crossing closures  
**Attachments:** 17.04.22 C Schofield staty dec.pdf; 17.04.23 A Stinson staty dec.pdf  
**Importance:** High

Dear Sirs,

Further to our letter to you of 21st April we attach two statutory declarations by way of evidence to support Wivenhoe Town Council's contention that the Paget Road Crossing has been a public right of way for at least well over eighty years and that a public enquiry must be held before any consideration is given to closing it.

Kindly acknowledge receipt.

Regards,

Hazel Humphreys  
TOWN CLERK

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Council Offices  
77 High Street  
Wivenhoe  
Essex CO7 9AB

Tel: 01206 822864

CC:

Cllr Edward Johnson (Cabinet Member for Highways and Transport, Essex County Council)  
Cllr Julie Young (Ward County Councillor for Wivenhoe St Andrews)  
Simon Taylor (Public Rights of Way Officer, Essex County Council)  
Cllr Mike Lilley (Colchester Borough Council)  
Cllr Cyril Liddy (Colchester Borough Council)  
Cllr Rosalind Scott (Colchester Borough Council)  
Cllr Mark Cory (Colchester Borough Council)  
Cllr. Andrea Vaughan (Wivenhoe Town Council)

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**From:** Wivenhoe Town Council [mailto:wivenhoe\_council@btconnect.com]  
**Sent:** 21 April 2017 14:29  
**To:** 'chris.grayling.mp@parliament.uk'  
**Cc:** 'bernard.jenkin.mp@parliament.uk'; 'will.quince.mp@parliament.uk'; 'cllr.eddie.johnson@essex.gov.uk';  
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'adrian.pritchard@colchester.gov.uk'; 'alresfordpc@outlook.com'; 'simon.taylor@essex.gov.uk';  
'gary.scott@northeastsexlibdems.org.uk'; 'idavidson@tendringdc.gov.uk'; 'essex@bbc.co.uk'; 'ecs.news@nqe.com';  
'gazette.newsdesk@nqe.com'; 'Derek Scarpenter'; 'cllr.cyril.liddy@colchester.gov.uk';  
'cllr.rosalindscott@colchester.gov.uk'; Cllr Mark Cory; Cllr Julie Young, Member CC; 'Peter Hill'

**Subject:** FAO Secretary of State for Transport - letter objecting to proposed Network Rail level crossing closures  
**Importance:** High

Dear Sir,

Please find attached a letter and accompanying photographs highlighting objections with regards the proposed Network Rail Level Crossing closures in the Wivenhoe area and co-signed by the stakeholders below.

Cllr Cyril Liddy (Colchester Borough Council)  
Cllr Rosalind Scott (Colchester Borough Council)  
Cllr Mark Cory (Colchester Borough Council)  
Cllr Julie Young (Essex County Council)  
Peter Hill (Wivenhoe Society)  
Sandpit Crossing Comments endorsed by Cockaynes Wood Trust

Please note that the statutory declarations to accompany this letter will follow shortly.

Please could you respond as soon as possible to the points raised.

We respectfully await your response.

Kind regards,

*Hazel Humphreys (Town Clerk Designate)*

*Wivenhoe Town Council  
Council Offices  
77 High Street  
Wivenhoe  
Essex CO7 9AB  
Tel: 01206 822864*

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I Charles Gibson Schofield of 73 High Street Wivenhoe Colchester Essex CO7 9AB

do solemnly and sincerely declare that the contents of this my declaration are to the best of my knowledge, recollection and belief, true and correct in every respect.

1. I was born on 16<sup>th</sup> May 1930 at Border House Anglesea Road, Wivenhoe Colchester Essex and I have lived in Wivenhoe all my life, except for my time in National Service.
2. I am familiar with and have used the footpath delineated in red on the attached plan and marked "Paget Road 1" and described below for as long as I can remember. Both my father and grandfather lived in Wivenhoe, and owned a number of properties in Paget Road and Anglesea Road.
3. The footpath transverses the Colchester to Clacton railway line and has the benefit of a pedestrian public right of way without vehicles and at all times without hindrance between the two parts of Paget Road, Wivenhoe Essex (CO7 9DT). It is known locally as "the Paget Road crossing" and is referred to as such below.
4. I believe the Paget Road crossing was created when the railway line to Clacton was built in 1866 and has been a permanent feature of Paget Road ever since.
5. The Paget Road crossing has been open to the public through out my life and that of my parents.
6. Network Rail and its predecessors have dutifully maintained the fabric of the Paget Road crossing through out its existence.
7. I am not aware of any accidents or other mishaps on or near the Paget Road crossing as a result of it being a public footpath.
8. At no time has Network Rail, its predecessors or any third party ever sought to challenge, curtail or otherwise interfere with the rights of the public to pass and re pass at will on the Paget Road crossing and its route has never been varied or diverted.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Declared before me this 22<sup>nd</sup> April of 2017 C. G. Schofield 2017

at 73 High Street, Wivenhoe, Colchester in the County of Essex

A Solicitor Mary Liddy

RHODDA & CO. LLP  
CHANCERY CHAMBERS  
89 ROSEMARY ROAD WEST  
CLACTON-ON-SEA  
ESSEX CO15 1EP

I hereby certify this to be a true copy of the Original

Mary Liddy  
MARY LIDDY SOLICITOR  
Rhodda & Co LLP  
Chancery Chambers, 89 Rosemary Road West  
Clacton-on-Sea, Essex, CO15 1EP

25-04-17





I Antoinette Joy Stinson of Ethlene 8 Stanley Road Wivenhoe Colchester Essex CO7 9LR and the Council Chambers 77 High Street Wivenhoe CO7 9AB do solemnly and sincerely declare that the contents of this my declaration are to the best of my knowledge, recollection and belief, true and correct in every respect.

Furthermore I make this declaration both as a life long resident of Wivenhoe and in my official capacity as Town Clerk to Wivenhoe Town Council.

1. I was born on 7<sup>th</sup> July 1953 and I have lived in Wivenhoe all my life. I have worked for Wivenhoe Town Council since 22<sup>nd</sup> April 1974 and have been Town Clerk since 1994.

3. I am familiar with and have used the footpath delineated in red on the attached plan and marked "Paget Road 1" and described below for as long as I can remember.

4. The footpath transverses the Colchester to Clacton railway line and has the benefit of a pedestrian public right of way without vehicles and at all times without hindrance between the two parts of Paget Road, Wivenhoe Essex (CO7 9DT) and is known locally as "the Paget Road crossing" and is referred to as such below.

5. The Paget Road crossing has been open to the public through out my life and that of my parents.

6. I believe the Paget Road crossing was created when the railway line to Clacton was built in 1866 and has been a permanent feature of Paget Road ever since.

7. Network Rail and its predecessors have dutifully maintained the fabric of the Paget Road crossing through out its existence, including the installation of safety lights and equipment a few years ago.

8. I am not aware of any accidents or other mishaps on or near the Paget Road crossing as a result of it being a public footpath.

9. At no time has Network Rail, its predecessors or any third party ever sought to challenge, curtail or otherwise interfere with the rights of the public to pass and re pass at will on the Paget Road crossing and its route has never been varied or diverted.

AND I MAKE THIS SOLEMN DECLARATION conscientiously believing the same to be true and by virtue of the Statutory Declarations Act 1835.

Declared before me this 23<sup>rd</sup> day of April 2017 at

Wivenhoe, Colchester in the County of Essex

A Solicitor

Mary Liddy

RHODDA & CO. LLP  
CHANCERY CHAMBERS  
89 ROSEMARY ROAD WEST  
CLACTON-ON-SEA  
ESSEX CO15 1EP

I hereby certify this to be a true copy of the  
Original

Mary Liddy  
MARY LIDDY SOLICITOR  
Rhodda & Co LLP  
Chancery Chambers, 89 Rosemary Road West  
Clacton-on-Sea, Essex, CO15 1EP  
25.04.17

