

OBJ/95

PETER KAY



Telephone
Email



2.5.2017

Dear Sirs

This is a formal objection letter re the closure of level crossings E41 Paget Road and E42 Sand Pit, the former principally on the grounds of no rational case having been put forward, and the latter principally on the grounds of the very dangerous alternative route.

I also attach a note regarding the origins of the crossing, for forwarding to the inquiry Inspector, in case this should become an issue of dispute at the inquiry.

Having already seen your response letter sent to other objectors, may I take this opportunity of stating now that I would want to attend any inquiry.

Yours

ORIGINS OF THE PAGET ROAD CROSSING

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.

The construction of the railway at this point was authorised by the Wivenhoe & Brightlingsea Railway Act 1861 (24 & 25 Vic cap. cxix, 11th July 1861). The wording of the Act itself makes no reference to a level crossing at this point but that was normal in the case of non-public-highways.

At the time, housing development had recently been commenced in this part of Wivenhoe. An auction had been held in 1857 of 22 plots on the west side of an 'intended new street to be called Paget Street', on the line of the present Paget Road, from Brook Street to a point 100ft north of the railway. By 1860 Paget Street had been made, and it appears on the November 1860 W&BR Deposited Plans (Attachment 1) listed as 'Occupation Road', owned by the Trustees of the will of William Brummell, contracted to be sold to Thomas Harvey (the developer).

The 1857 auction was however seemingly unproductive in sales terms, and a further auction including the same plots, plus those along the south side of another new street 'Queens Road', took place on 18.7.1861. The plan (Attachment 2) now showed Paget Street extending through to Queens Road. It will be noted that this auction took place seven days *after* the passage of the W&BR Act which empowered the W&BR to drive its railway through the middle of 'Paget Street'! – at a point that would not be precisely known until some time to come when the W&BR's Engineer decided on the exact alignment. This was obviously something of a disincentive to potential purchasers, especially as Paget Street would be at a level where neither a level crossing nor a bridge over the line would be practicable without further reducing the number of buildable-on plots.

In the circumstances the W&BR would have had to engage in negotiations with the developer / purchasers as to what was to be done regarding the intended railway's crossing over Paget Street. Unfortunately the W&BR company was poorly-managed by a remote Board in Pontefract, and its minutes are rather minimalist. A valuer to deal with landowners was appointed in February 1862. The November 1863 Tendring Hundred Railway's Deposited Plans still show the road, as 'Private or Occupation Road', owner Thomas Harvey. In August 1864 there is a reference to arrangements for 'the roadway of Mr Green and others at Wivenhoe', which *may* refer to Paget Street. In 1865 the W&BR lost their contractor, and the line between Wivenhoe station and Anglesea Road was instead completed by the Tendring Hundred Railway. However their minutes too reveal nothing about Paget Street.

It would however appear that it was agreed that the idea of a continuous new road between Brook Street and Queens Road was abandoned, and that instead it would be built *either* as two separate streets north and south of the railway, *or* on the south side only at this stage, but in either case with a footpath over the line. The railway

company would not have conceded a foot crossing unless this was enforced on them under the property negotiations.

The first subsequent map showing the footpath crossing is the 1874 Ordnance Survey 25in * (Attachment 3). In the 1860s only the southern half of Paget Road (as it was in the event called) had been made, and on the north side the footpath ran due north from the crossing to Queens Road. Some years later the northern half of Paget Road was also made, and the path was altered to its present form, as shown poorly on the 1894 OS but properly on the 1921 OS (Attachment 4). The earliest known photographs (Attachment 5) also date from the latter period and in combination they clearly show the crossing in its present form.

The railway opened on 8.1.1866 and there is every probability that the crossing was present from the start, although there is no absolute proof pre-1874. In any case it does not matter for present purposes exactly what the date was.

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British Boundary

2
RAD. 1

CHURCH

A

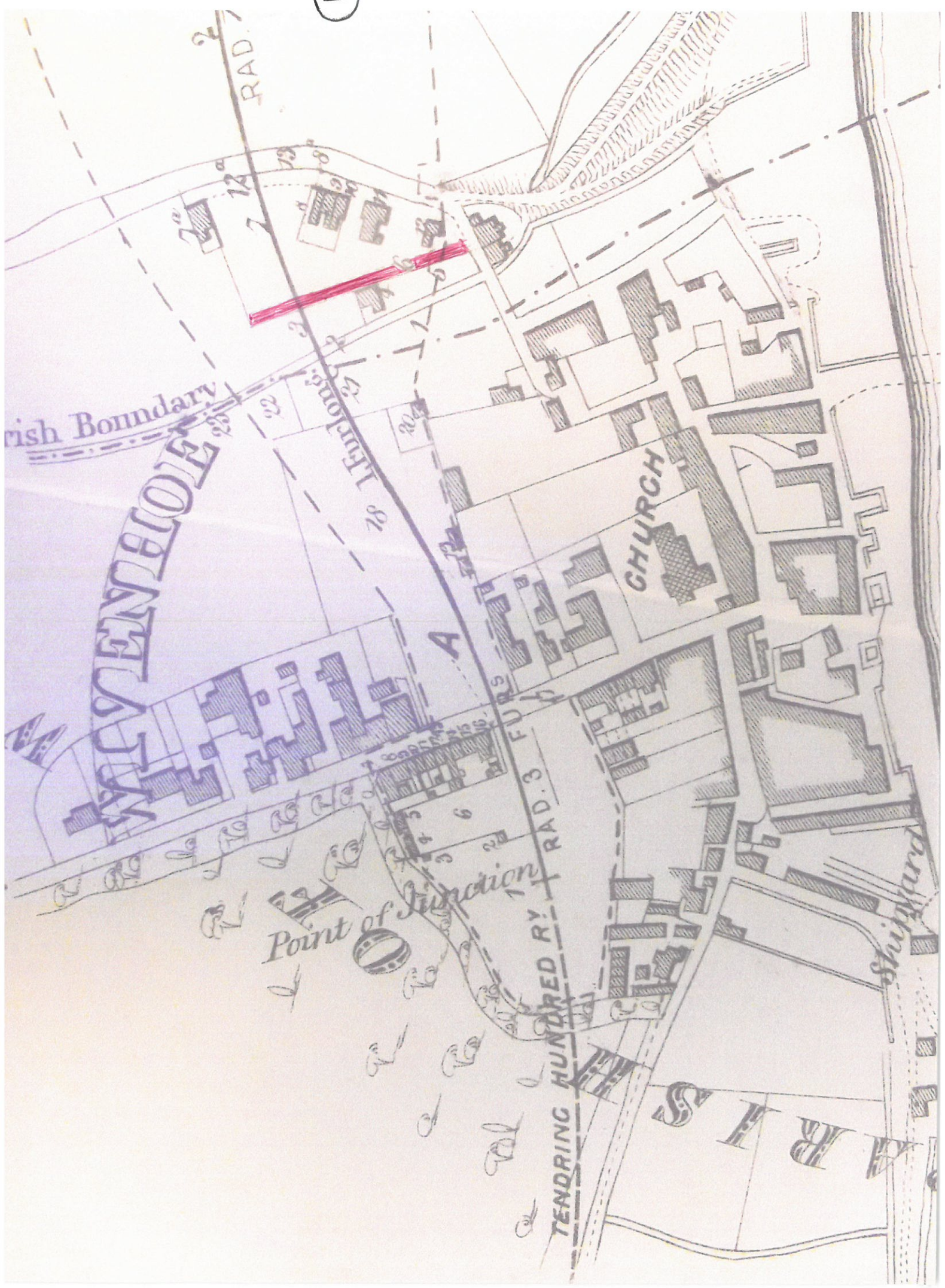
1
RAD. 3
FURS

Point of Junction

TENDRING HUNDRED BY

ABTS

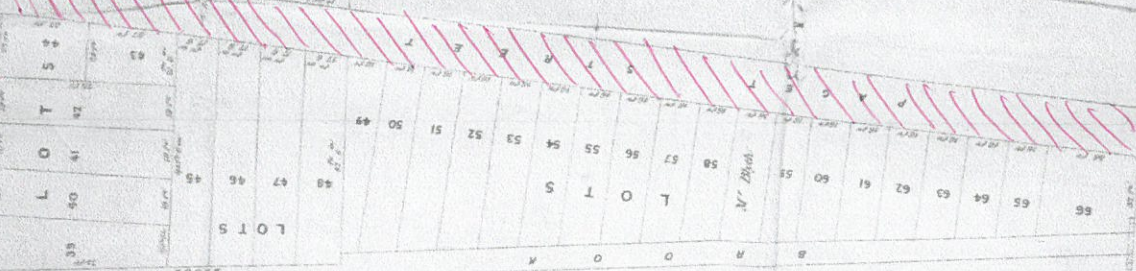
Shipyard



ANGLES ROAD

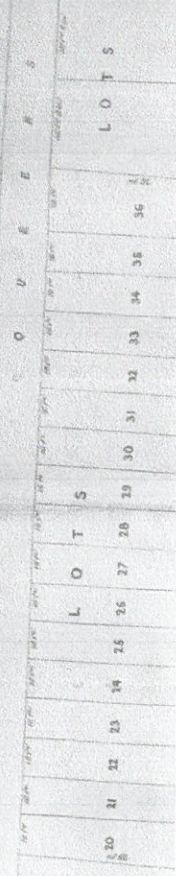


Valuable Freehold
BUILDING PLOTS
LAND TAX REDEEMED
Part of the Original Sale of
WYNDHURST ESTATE
To be Sold by Auction by
M^r EDWARD SMITH
1862.

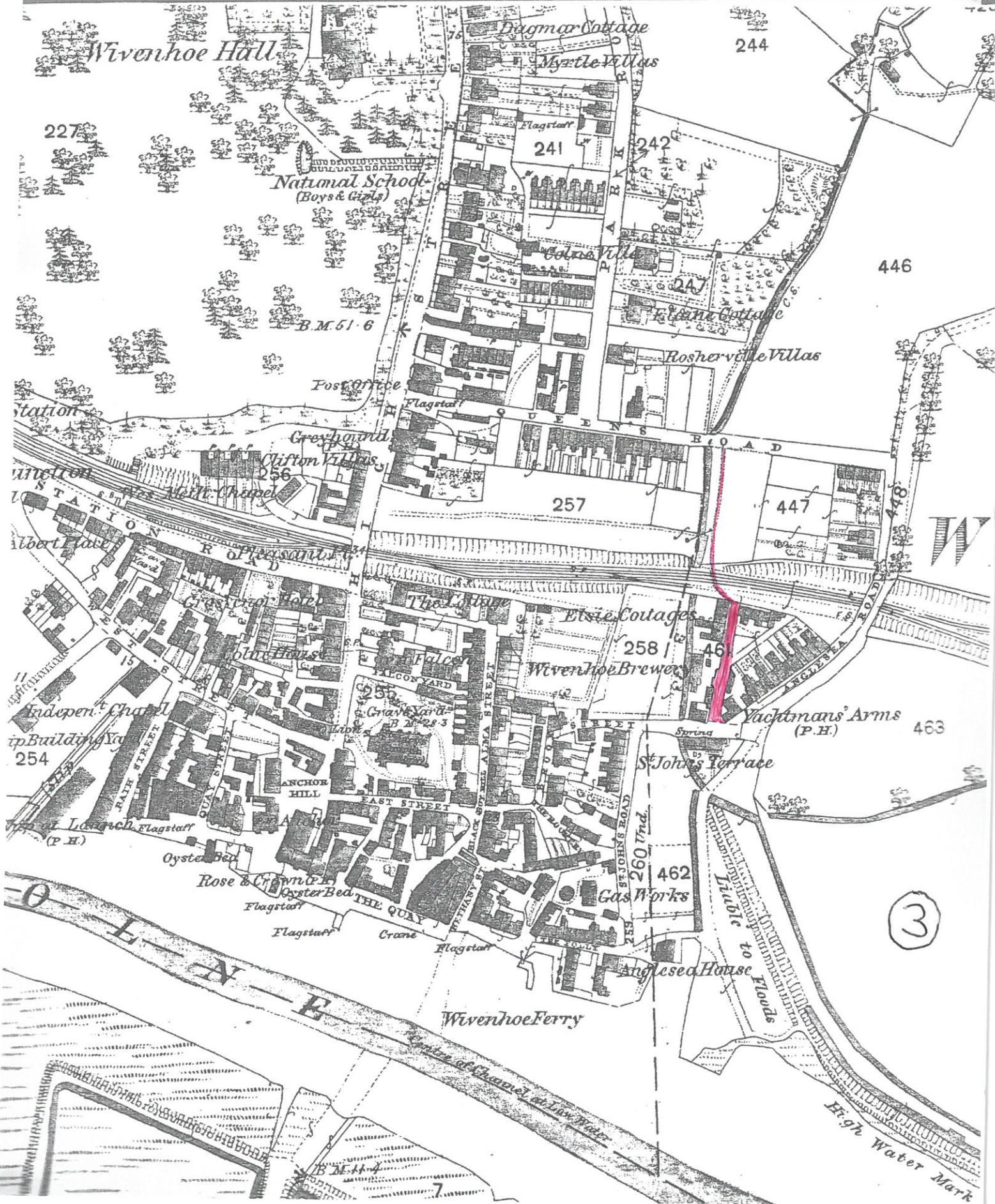


BROOK STREET

Small Garden



from Chichester



Wivenhoe Hall

National School
(Boys & Girls)

Post Office

Clifton Villas

The Cottage

Elsie Cottages

Wivenhoe Brewery

Yachtman's Arms
(P.H.)

St John's Terrace

Gas Works

Angledsea House

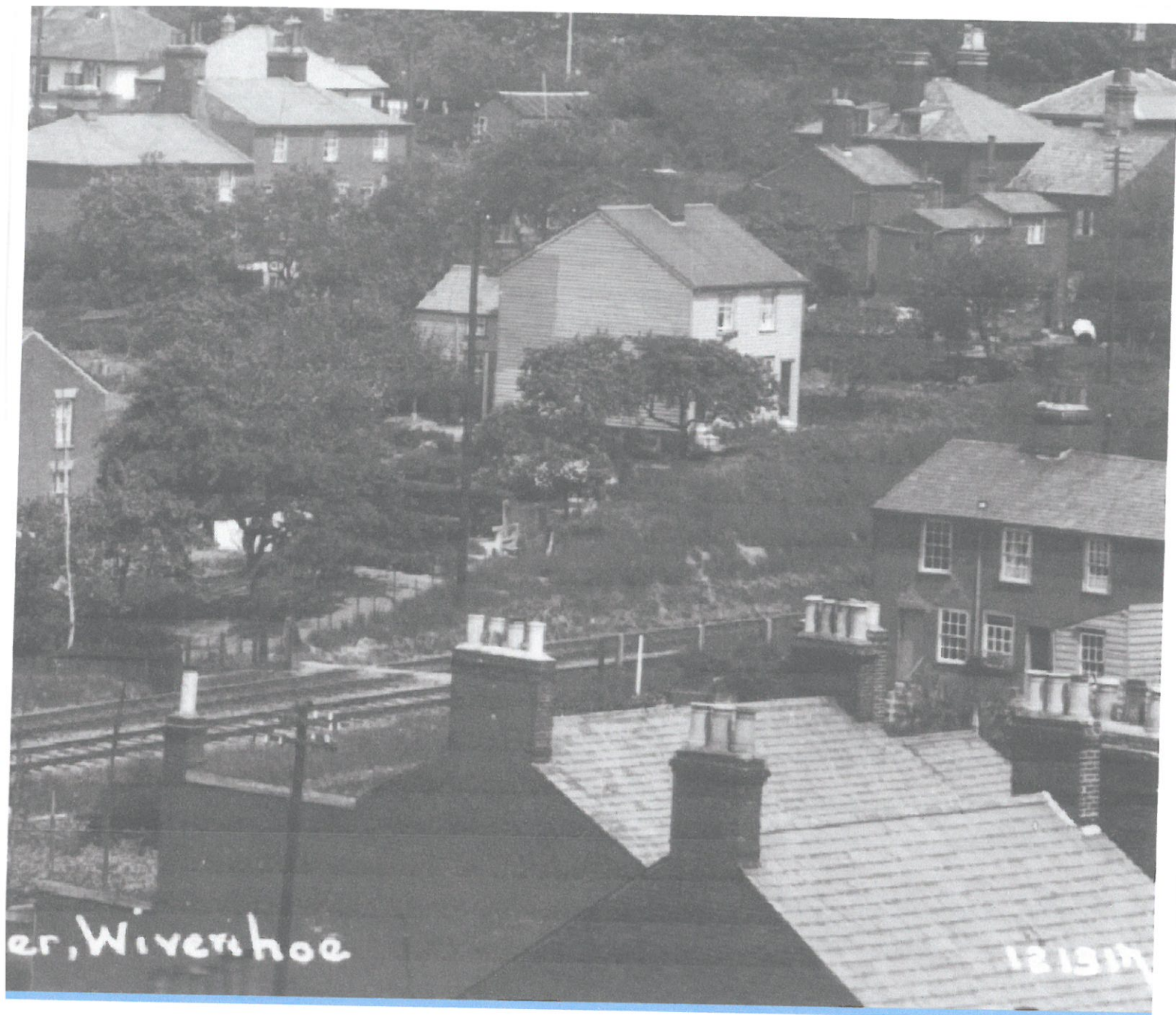
Wivenhoe Ferry

High Water Mark

3



5



⑤