

From: Charles Gooch <charles@estateoffice.org.uk>
Sent: 11 May 2017 16:45
To: TRANSPORTANDWORKSACT
Subject: Network Rail Essex and Others Level Crossing Reduction Order
Attachments: Network Rail objection page 1.jpg; Network Rail objection page 2.jpg; Network Rail objection page 3.jpg; 367516 Design Freeze Proposal Plans - Alternative Format Essex_E57.pdf; Network Rail agent correspondence.eml; Network Rail image 1.JPG; Network Rail image 2.JPG; IMG_3273 Network Rail image 3.JPG; Sustrans Network Rail Anglia Level Crossing Reductions TWA Order letter of 21st April.docx

Dear Sirs

I attach my letter with representations and objections to the Notices served upon me concerning E57 Wivenhoe Park, Essex.

I am the owner of the relevant plots.

My address is on my letter but is Fen Farm, Elmstead, Colchester CO7 7ER.

I would be grateful if you would confirm receipt

Yours faithfully

Charles Gooch

This email has been scanned by the Symantec Email Security.cloud service.
For more information please visit <http://www.symanteccloud.com>

WIVENHOE PARK ESTATE OFFICE

FEN FARM
ELMSTEAD MARKET
COLCHESTER CO7 7ER

The Secretary of State for Transport
c/o Transport and Works Act Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18
Great Minster House
33 Horseferry Road
London
SW1P 4DR

11th May 2017

Dear Secretary of State

THE TRANSPORT AND WORKS (APPLICATIONS AND OBJECTIONS PROCEDURE)
(ENGLAND AND WALES) RULES 2006
PROPOSED NETWORK RAIL (ESSEX AND OTHERS LEVEL REDUCTION) ORDER

I am writing to make representations and objections to the proposals being made to you by Network Rail Infrastructure Ltd with regard to crossing E57, Wivenhoe Park, Colchester, Essex as part of their Anglia Level Crossing Reduction Strategy.

I am the owner of Plots 4, 5, 6, 7, 9, 11(x2), 12, 14, 15, 22 and 23 and this letter concerns the Notices I have received for these plots.

GENERAL

From the time the railway was constructed, our family have used the Wivenhoe Park Crossing to gain access from our land east of the railway line to our grazing land to its west as there is no alternative access. The grazing land in question is low-lying marsh on the banks of the River Colne which is protected by a sea wall.

About 20 years ago, we granted Sustrans the rights to build and maintain a cycleway on the sea wall, which is now part of the National Cycle Network and is frequently used by cyclists. The cyclists travel between Colchester and Wivenhoe and also gain access to the University of Essex using the Wivenhoe Park crossing.

A public footpath exists on the sea wall which also extends over the crossing to the University, which is heavily used.

Natural England are currently planning the opening of a Coastal Path under the Marine and Coastal Access Act 2009, which is likely to involve some physical improvements to the current path.

Our marsh is of significant value to wildlife and is a UK BAP Priority Habitat. We manage it to conserve and encourage wildlife under Natural England's Higher Level Stewardship Scheme and have recently included the area in a new application for Higher Tier Countryside Stewardship.

ACCESS OVER THE CROSSING

2.

At present, a pair of locked gates are situated at my private vehicular access. When vehicular access is needed, we use a fixed Network Rail telephone to obtain permission to cross. Network Rail wish to extinguish these rights if they can establish the proposed alternative access.

A pair of styles allow access for walkers and Network Rail propose that pedestrian rights will remain open.

During the consultation process, Network Rail advised that they would be willing to erect cycle gates at the crossing to enable cyclists to cross the railway line more easily. This would be logical as cyclists will cross anyway by lifting their bicycles over the styles. However, I note that in Network Rail's Design Freeze Proposals of March 2017 (attached) the reference to cycle gates has been removed so I am assuming that this offer has been withdrawn.

Network Rail have carried out studies to establish the numbers of users of the crossing and it is clear that there is a need to keep the crossing open for cyclists and walkers.

My concern is that Network Rail's proposed alternative vehicular access is ill-considered and an over-reaction to alleged risks.

Our vehicular access is infrequent, perhaps occurring twice a year on average, but, when it occurs, it involves large machinery such as tractors with trailers and/or implements. The cycleway requires maintenance every few years and Sustrans needs to be able to access the path with diggers, heavy equipment and lorries carrying stone for repairs. An area for temporary storage of stone and other materials will also be needed as the location currently used will not be accessible. We do not know at this stage how much work will be required to open the Coastal Path, nor do we know how much work will be needed in the future to maintain the sea wall (which protects farmland, the railway line and development within the University). Adequate provision needs to be made for all these.

The existing vehicular crossing can only be used after calling for permission by fixed telephones located at the gates, after which the gates can be unlocked and a crossing made. I contend that the risks of a collision by this occasional, but vital, use is small to non-existent, whereas the risk by unfettered access by walkers and cyclists, of which there are many, is significant. Yet, Network Rail want to see the vehicular access closed.

THE PROPOSED ALTERNATIVE ACCESS

I am advised that, should the Orders be confirmed, Network Rail will have to grant me a legal right of way over the proposed alternative vehicular access. No confirmation of this has been received.

Network Rail's agents advised me on 19th April (as attached) that Network Rail would "make such alterations as are reasonably necessary, there may be a need to firm up some of the land to allow full access. Once on the land, it has been assumed that access would be sufficient as all land is currently accessible for cutting on a periodical basis". I have inspected Sheet 42, which details the areas of land over which rights are required for access and it appears that Network Rail do not intend to widen the existing cycleway, which is approximately 2.5 metres wide. To do so would be a huge undertaking requiring the widening of the sea wall and the widening a culvert at the sluice gate. Without those improvements, access by tractors with trailers and other implements, stone lorries and the like will be impossible, particularly as the cycleway and footpath are constantly in

3.

use. I would add that "to firm up" some land (presumably Plots 9 and 10 on Sheet 42) would not be adequate. The marsh floods frequently and we need an access that is accessible at all times as well as an area to temporarily store stone and other materials. I contend that "firming up" part of a marsh will be insufficient.

I attach photographs of the areas in question. Image 1 is the residential area through which Network rail intends that we will have access, Image 2 is the start of the cycleway and Image 3 is the sluice gate. You will note that there is a corner at the sluice gate so further widening will be required for a tractor and trailer or a lorry to pass this point in safety.

Furthermore, Network Rail have confirmed that future maintenance "would be for the user of the route" thereby passing further costs onto me or Sustrans. I attach Sustrans' letter to you dated 21st April 2017.

NOTICES SERVED FOR RIGHTS PROPOSED TO BE ACQUIRED

I have the following comments to make:

1. Notices for Plots 5, 6, 7, 11(X2), 14, 22 and 23 have been served for the temporary use of land, which is logical as presumably Network Rail would need a working area during the works.
2. The Notice for Plot 4 is for the right to acquire rights in land compulsorily. Bearing in mind all the other plots above are for temporary use, I fail to understand why Network rail should wish to acquire rights in land for Plot 4. I sought clarification from Network Rail's agents on 31st March, suggesting that it might be an error, but have not received a response (see previously referred to attachment). I therefore object to this Notice.
3. Notice for Plots 12 and 15. These Notices seek to acquire rights in land. Again, I sought clarification from Network Rail's agents on 31st March, asking what rights they were seeking to acquire. Again, I have not received a response. I assume that they seek a right of way but I am concerned that they wish to acquire a permanent right of way for a temporary use of land. This is illogical and needlessly disadvantages me and I accordingly object to Notices 12 and 15.
4. Notice 9 deals with the extinguishment of my private rights over the crossing. Unless Network Rail provides me with a proper alternative, which their proposals fail to do, I object to this Notice.

In conclusion, I consider Network Rail's proposals to be ill-conceived and a significant over-reaction to a perceived risk caused by vehicular traffic, as no incidents with vehicular traffic have ever occurred at this location to my knowledge. As such, I consider it reasonable to object to the proposed Orders in totality.

I hope that you will consider my letter favourably.

Yours faithfully



C N GOOCH

SECTION 1: LEVEL CROSSINGS

- Rights to be modified
 - Rights not modified
- The above symbols indicate existing rights to be modified or not modified. The ring colours are as per section 4.

SECTION 2: TYPE OF RIGHT

- Footpath (public)
 - Bridleway (public)
 - Restricted byway (public)
- The line styles above illustrate the type of right. The colour is as per section 4 below.

SECTION 3: PROPOSED USE

- Footway Available
 - Verge Available (No)
 - Carriageway Available
- Where the proposals may divert users where a footway is available, a verge or a carriageway would need to walk in the

SECTION 4: PROPOSED STATUS

- No change and not part of diversion
 - Use of existing right of way as part of diversion
 - Change of status to existing right of way
- The above colours apply to the

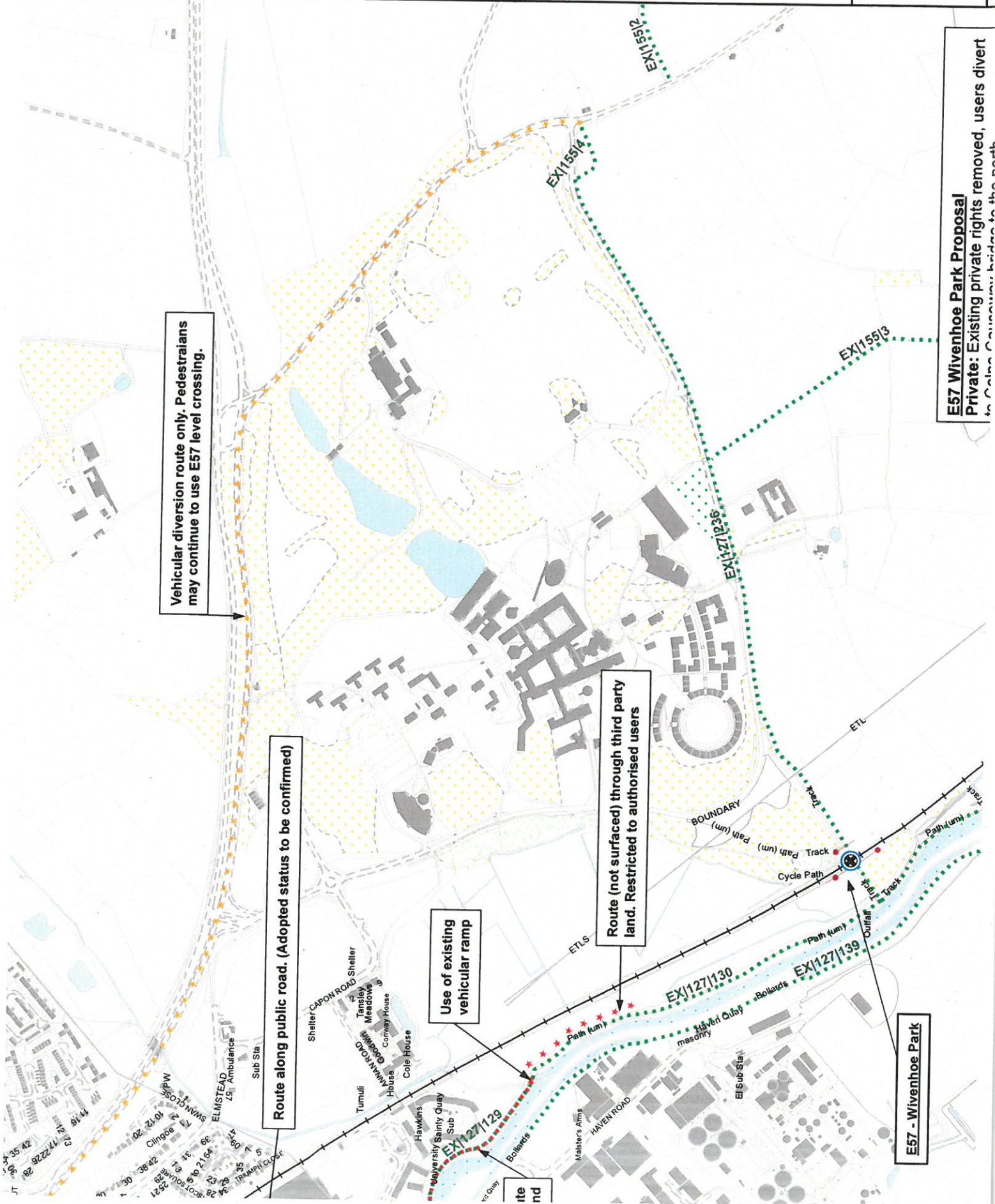
SECTION 5: ASSOCIATED INFRASTRUCTURE

- Fencing (tie into existing)
- Gates
- Bridges
- Footway

- The layout shown on this drawing is for design only.
- This drawing should be referred to the Southend-on-Sea, Havering, and Thurrock Local Planning Authority (Ref: 367516/RPT02) for infrastructure types referred to.



M M
MOTT
MACDONALD



Vehicular diversion route only. Pedestrians may continue to use E57 level crossing.

Route along public road. (Adopted status to be confirmed)

Use of existing vehicular ramp

Route (not surfaced) through third party land. Restricted to authorised users

E57 - Wivenhoe Park

E57 Wivenhoe Park Proposal
Private: Existing private rights removed, users divert to public carriageway bridge to the north

Caroline O'Neill

From: Charles Gooch <charles@estateoffice.org.uk>
Sent: 02 May 2017 11:51
To: Laurie Edwards
Subject: Re: Network Rail Level Crossing Reduction Project - E57 [BK-BK.FID419612]

Hi Laurie

Thank you. Please tell them that I must have a reply this week without fail

Kind regards

Charles

On 02/05/2017 11:15, Laurie Edwards wrote:

Hi Charles,

I have chased this with Network Rail, they have a Consents Team dealing with all post service engagement and I understand that they will be responding to you directly.

Kind regards

Laurie

From: Charles Gooch [<mailto:charles@estateoffice.org.uk>]
Sent: 02 May 2017 10:21
To: Laurie Edwards
Subject: Re: Network Rail Level Crossing Reduction Project - E57 [BK-BK.FID419612]

Dear Laurie

I would be grateful for an answer this week please as I need to write to the Secretary of State by the 12th.

Kind regards

Charles

On 19/04/2017 12:30, Charles Gooch wrote:

Dear Laurie

Thank you. They didn't answer my further questions contained within my email below of 31st March regarding Plots 4, 12 and 15.

Can I have their answer as soon as possible please as the timescales are getting short.

Kind regards

Charles

On 19/04/2017 12:18, Laurie Edwards wrote:

Good afternoon Charles,

I have received a response to your queries from Network Rail as follows:-

1. Has the owner of third party land consented to granting me an easement for access from the adopted road to my property, allowing improvements to be made to their land and allowing future maintenance?

There are multiple landowners, and some of the land has gone bona vacantia. We are using the TWAO process to obtain consent from all affected landowners. If we cannot obtain the consent, the scheme will not proceed.

2. Would Network Rail carry out the improvements to the trail to allow access by large machinery, particularly as there are some pinch points, as pointed out to Andrew Prowse on 30th January. Network Rail would make such alterations as are reasonably necessary, there may be a need to firm up some of the land to allow full access. Once on the land, it has been assumed that access would be sufficient as all land is currently accessible for cutting on a periodical basis.

3. Would Network Rail be maintaining the new access.

Only for an initial period to ensure any works done by us are to a satisfactory standard. Thereafter, maintenance would be for the user of the route.

4. Will Network Rail will be indemnifying me for legal and professional fees.

As previously advised, professional fees will not be reimbursed at this stage, if the powers are confirmed and notice to treat served a right to compensation will arise at this juncture. This may include professional fees where reasonable and reasonably incurred.

Kind regards

Laurie

From: Charles Gooch [<mailto:charles@estateoffice.org.uk>]

Sent: 04 April 2017 11:12

To: Laurie Edwards

Subject: Re: Network Rail Level Crossing Reduction Project - E57 [BK-BK.FID407336]

Morning Laurie

Yes, I have received the notice for Plot 23 today. Strange that they didn't send it with the others!

An early response to my queries would be appreciated.

Kind regards

Charles

On 04/04/2017 10:28, Laurie Edwards wrote:

Good morning Charles,

I have sent your queries onto Network Rail including those from 6th March and understand that a notice for plot 23 was sent to you yesterday.

Kind regards

Laurie

From: Charles Gooch
[mailto:charles@estateoffice.org.uk]
Sent: 31 March 2017 16:39
To: Laurie Edwards
Subject: Re: Network Rail Level Crossing Reduction Project - E57 [BK-BK.FID407336]

Dear Laurie

Many thanks

Plot 23 - I have not to date received a notice for this plot, but it may well be on its way. I will let you know if it appears.

Plot 4 - I am unclear why rights in land are required for this plot when all the other plots in that area are only required temporarily. Please clarify. It may be an error.

Plots 12 and 15 - Can you confirm what rights in land your client is seeking to acquire? I assume a right of way. If so, why is it not temporary in view of the fact that the right of way would be needed for a temporary use? Also, who would be responsible for future maintenance?

Finally, I do of course need answers to my email of 6th March.

Please would you be so kind as to obtain your client's instructions within two weeks, so I have adequate opportunity to obtain legal advice and write to the Secretary of State with any representations or objections.

Kind regards

Charles

On 31/03/2017 15:26, Laurie Edwards wrote:

Good afternoon Charles,

Further to our telephone conversation please find attached pdf version of sheet 43 and the design freeze plan which should correlate with the plans you received with your formal notices.

Once you have had the opportunity to review, if you believe you should have received a notice regarding plot 23, please let me know.

I have emailed Network Rail to let them know that we have spoken and requested answers to your queries as discussed.

Kind regards

Miss Laurie Edwards

Bruton Knowles, 15 Castle Gate,
Nottingham, NG1 7AQ
Tel: 0115 988 1160 Direct Line:
0115 934
7090 www.brutonknowles.co.uk/
Please consider the environment
before printing this e-mail – follow
us on twitter @brutonknowles



Property Consultants

Disclaimer

The information in this email is only for the recipients named and is subject to legal privilege. If you are not an intended recipient you should notify Bruton Knowles of your receipt of it immediately from your system.

Although Bruton Knowles believes this email and any attachments might affect your system it is your responsibility to ensure the liability for any loss or damage caused in any way by its receipt regulated by the Financial Conduct Authority. Bruton Knowles









2 King Street
Nottingham
NG1 2AS

Transport and Works Act Orders Unit
General Counsel's Office
Department for Transport
Zone 1/18, Great Minster House
33 Horseferry Road
London
SW1P 4DR

Friday, 21st April 2017

Dear Sirs,

RE: Network Rail (Essex and Others Level Crossing Reduction) Order

Please find comments and an objection from Matthew Easter, England Director, Midlands & East for Sustrans Limited as related to the Network Rail (Essex and others level crossing Reduction) Order. I write to object to the proposed closure of vehicle access rights on the level crossing at Wivenhoe Park (E57) as set out in the Network Rail (Essex and other level crossing reduction) order submitted to Secretary of State for transport and dated 31st March 2017.

Sustrans Limited object to the closure of the vehicle rights over the level crossing on two grounds.

1. Network Rail propose to close the level crossing to vehicular traffic, which would result in the land to the west of the railway line being landlocked, unless an alternative access route is provided. Vehicle access is necessary for the landowner, the Environment Agency and Sustrans Limited from time to time. It is understood that Network Rail propose to acquire rights over third party land, so they are in a position to grant the landowner vehicle access rights from Lightship Way via the public footpath and permissive cycle path to the landowners land. Sustrans are concerned that this will introduce vehicular traffic onto the footpath and permissive cycle path and could increase the risk of collisions on the footpath and cycle path.
2. Sustrans Limited has a licence from the landowner to allow continued use of the permissive cycle path. Under the terms of the licence Sustrans have certain maintenance responsibilities for the cycle path and culverts. Sustrans are concerned that the use of the path for vehicular traffic will increase the wear and loading on the facilities which Sustrans maintain. Network Rail should be responsible for any additional maintenance arising from the use of the footpath and cycle path as a vehicle access.

Sustrans do support the installation of a suitable gate at the level crossing for use by people in wheelchairs or pushing cycles and pushchairs.

Yours faithfully,

A handwritten signature in dark ink, appearing to read 'Matthew Easter', written in a cursive style.

Matthew Easter
England Director, Midlands and East