

WIVENHOE TOWN COUNCIL

COMMENTS ON NR STATEMENT OF CASE

COMMENTS ON NR RESPONSE TO WTC OBJECTION (also referring to NR responses to some other Wivenhoe objections)

INQUIRY FULL PROOF OF EVIDENCE: Peter Kay

(This document combines all three of the above).

DOCUMENT OBJ/029 – W1 – 3

Peter Kay Proof of Evidence (full) as amended 3.10.17

The NR / ECC / etc documents / emails that are the source of some of the comments made here are, being numerous, not attached herewith: copies of any can be supplied if desired.

Re NR STATEMENT OF CASE

The Statement of Case, despite its massive length, really only succeeds in highlighting the lack of any attempt by NR to present any detailed argument for the closure of each individual crossing (in the same way as would be done for an inquiry into *one* crossing closure scheme only). As with the other crossings in the Essex order, the 5-page section on Paget Rd, where one would expect to find the case for its closure, merely has the one-sentence statement that

‘NR addresses the need to close the crossing and safety issues at crossings in this Statement of Case’.

Not surprisingly it doesn’t refer to *where* in the Statement of Case this need is allegedly explained!

The underlined words are simply untrue. The only material actually provided by NR in the Statement of Case is the generalised material at pp. 9-27 of Folder 1 explaining why *some* level crossings can be dangerous, much of which naturally relates to *vehicle* crossings, which are far more risky than footpath crossings (but quite irrelevant to the present inquiry). It would seem that NR consider that, by making generalistic comments about the actual and potential risks and nuisances of level crossings at large, they have produced a ‘case’ for shutting each crossing included in the draft order *, irrespective of the fact that most of the problems will not actually be applicable at any one individual crossing!

In view of the attitude displayed by NR personnel at the consultation process, which was effectively ‘these crossings will be closed whatever you people say’, we can only assume that this lack of a presented case arises from NR not thinking it necessary to participate fully in the inquiry process, having started off by assuming that everything would be rubber-stamped.

* In the NR response to Bernard Jenkin this is done quite blatantly. ‘Level crossings collectively pose the greatest risk to safety on the railway network’ is their *only* response to his having pointed out that Paget Rd has an excellent safety record.

NR's ATTITUDE PROBLEM ON LEVEL CROSSING SAFETY

The number of objectors to Paget Rd is quite of a different order to any other crossing in the draft order, 74 out of the total of 191 for the whole county.

The basic fact about Paget Rd is that, until NR started on its mass level crossing closure programme in 2012-14, this crossing had existed for 150 years without being a problem to its users, or to the operation of the railway, or to the Wivenhoe community at large. But NR have instantly turned it into a nuisance to railway operation and a source of noise torment to a large % of the people of Wivenhoe, and they now want to eliminate its users altogether.

NR's general decision to undertake a general review of all level crossings was in itself very sensible – indeed it should have been done a lot earlier. So far as footpath crossings go, the country does have a large number of genuinely unsafe crossings, not least because of line speeds being increased to 100mph+ without eliminating flat crossings. The review has also identified a large number of footpath crossings, including many in Essex, with virtually no use, which can be eliminated without inconvenience to anybody.

Again, it is very proper that NR should now have developed standardised methodology for evaluating the risk factors at individual crossings. But this system is being abused to create a system of 'proving' that any crossing they want to close is definable as 'unsafe'.

Our fundamental contention is that the question of whether any crossing with a long history is 'safe' or not is one that can be decided principally as a matter of historical fact. NR in contrast rely entirely on a system of theoretical calculations creating a parallel universe in which a record of 0 incidents in 150 years can nevertheless be presented as *especially dangerous*.

Indeed they state in their response to P. Marsden that it is the 25th most dangerous of all the 354 foot crossing surveyed in East Anglia! which only re-emphasises the level of 'hype' involved. (Their own estimate is actually only that a person using the crossing twice a day would be killed once every 5,000-25,000 years).

Obviously in this type of parallel universe one could equally make out a case for the 'extreme danger' of travelling along or crossing over any road in the country (including Wivenhoe High Street), let alone such famously frequent causes of death as walking downstairs at home.

The *reason* why NR (and the ORR) have acquired this distorted mindset is that they as organisations are required by government to minimise the risks to people *on NR property* – not to minimise the overall net risk of anything going wrong from people doing what they have to do. **They are directed in essence to ensure purely that accidents take place *off* NR property and not on it.** It has become a matter of national notoriety that they will happily force people to walk along roads where there is more danger than there is on a foot crossing that they are seeking to close, and this has been beautifully re-emphasised in the local part of the current scheme in respect of E42 and the proposed diversion of walkers over the Alresford Road bridge. (They were even able to find supposed road safety experts who could visit the bridge and solemnly declare that there was no evident danger in walking along it!).

Only *our* common sense and vigilance has stopped this E42 scheme.

Even less do they consider themselves under any obligation to balance the *convenience* of the public against the real or alleged risks.

In contrast, the SoS in deciding on the draft order is in no way bound to be so myopic – it is his duty to balance *all* the factors involved (including *road* safety) rationally. Here one might mention the very balanced conclusions of the Law Commission's report on level crossings (as reported in the Transport Select Committee report on level crossings):

'Closure of Level Crossings: The Law Commission recognised that decisions about level crossings involve striking a balance between the convenience to communities in being able to cross a railway, and public safety. The Commission has recommended that consideration of the closure of level crossings should be based on a public interest test which would consider a new non-hierarchical and non-exhaustive list of the following factors:

- the safety of the public
- the convenience of the public
- the efficiency of the transport network including the network of public paths
- the cost of maintaining the crossing
- the need for the crossing and its significance for the local community
- the costs and environmental impact of any works needed to replace the crossing or upgrade other crossings.

Our experience in this case has also revealed how the distorted worldview under which NR works on this front has led to NR staff adopting emotionalised and non-professional attitudes to the whole 'safety' question. The LinkedIn page of one of the officers most involved in Essex tells us that

'Nearly all my time is spent closing level crossings on the Anglia route.....I'm passionate about the work I do, and nothing gives me greater pleasure than seeing another level crossing being closed!'

This is someone who ought to be making rational investigations into which crossings should or should not be put up for closure.....

Overemotional talk is used quite casually, e.g. we are told that it is 'extremely traumatic' for a train driver to see someone walking across the line in advance of their train (one hopes that if any such oversensitised individuals do exist, they never venture onto a public highway!). In the past it was far more common for drivers to see track workers etc on the line ahead, only moving clear at a late moment, yet none are ever reported to have suffered mentally from this, any more than the passengers who saw this from the front seats of 1950s-80s diesel trains.

According to NR's published material, e.g. 'Our Approach to Managing Level Crossing Safety', their policy is that

'our efforts will be concentrated towards those crossings that are determined as presenting the greatest collective risk, i.e. the risks to both users and those who could be impacted by potential crossing incidents such as staff and passengers on trains'.

That would mean concentrating on vehicle crossings. But the East Anglia crossing closure programme is doing exactly the opposite. This region is famed for the number of collisions between trains and road vehicles at automatic and user-worked crossings, which have led to the successive TOCs having trains in works for repair for a fair percentage of the time; and any of these collisions could with bad luck result in passenger fatalities. But action on these crossings is being put off, and footpath crossings, where nobody other than careless crossing users can ever come to harm, are being treated as the No.1 priority.

Wivenhoe people are in fact exposed daily as passengers to one of the most dangerous (in terms of line speed and train numbers) road crossings in the whole of SE England, Kelvedon Church Street. NR has stated itself that this automatic half barrier crossing on a 100mph section also has an exceptionally high level of vehicle driver abuse. There could at any time be a two-train collision caused by one train being derailed by hitting a vehicle and then being hit by a train coming the other way, with high fatalities. But NR are not interested.

PUBLIC FOOTPATH STATUS OF PAGET ROAD

As NR continue to state that they do not intend to challenge this crossing's public right of way status, this will presumably not need to be debated at the inquiry.

Nevertheless it might be appropriate (in case of any future legal dispute) to comment on their new claim that they are exempt from the general law on 'presumed dedication'. (Response to WTC p.2: 'It is not accepted that public rights of way can arise by presumed dedication at level crossings, even where level crossing furniture has been provided'). Whatever NR's logic is on this front, it is not supported by either the Law Commission or DfT. The former in fact recommended that there *ought* to be a 'statutory prohibition on the acquisition of rights of way across the railway by prescription' – i.e. they were clear that no such prohibition does exist in current law. And DfT rejected this proposal, pointing out that the railway already had the same opportunities for preventing such rights from accruing as any other landowner.

REDUCING THE RAILWAY'S COSTS

Turning now to the rather minimal extent to which the closure of E41 would achieve the general objectives set out in the NR 'Statement of Aims' (on which we commented at length in our objection), there is nothing in NR's response that overturns the general point that the railway was *obliged* to provide these crossings, by statute or (as assumed in this case) by landowner agreements, and where local circumstances have not changed (and they have not in Wivenhoe) the fact that it costs small amounts of money to maintain them is not a legitimate argument for closing them. Similarly, the argument that NR is obliged to 'have regard to the use of public money' could be used for failing to fulfil *any* obligation. The High St and Anglesea Road both existed before the railway was built and clearly the railway was forced to accept that these were *not sufficient* as routes for public use in the light of the new housing development here in the 1860s. Also one can hardly refrain from mentioning the way in which NR has become infamous for *multi-billion-pound* costs inflation (much, admittedly, caused by the political balkanisation of the system), so it wears rather thin to see the minimal costs of foot crossing maintenance used as an excuse for depriving local people of their rights.

SIGHTING DISTANCES AND SAFETY

ERROR IN NR EVIDENCE: Fisk, caption at bottom of p.165: the Up's and Down's are the wrong way round.

Also note that in Fisk's evidence here, the 103m minimum sighting distance given for north side to west and south side to west is that for the current temporary 20mph speed limit (with 50% added), not for the ordinary 50mph limit, and is therefore not the distance (256m) on which NR are basing their case for non-compliance elsewhere.

All our discussion in this section is based on the 50mph speed limit for down trains as well as up (i.e. it refers to the situation prior to the temporary speed limit for down trains).

Whilst, as noted above, our principal case on 'safety' is that this can be proved by historical fact, we have nevertheless sought to understand NR's own rationale on this front (starting with email correspondence in 2014).

NR have now given, in Fisk's proof p.6, the full details of their method of calculating minimum acceptable sighting distances. From the methodology given, the correct acceptable distance at Paget Rd, as a 90 degree crossing on a 50mph line, can be calculated as 169m. Only now is it suddenly revealed that the 254m (or 256m) distance that NR has always quoted (and continues to quote) is based on the addition of 50% for 'vulnerable users' who take longer to cross. But Fisk Appendix LCG02 p.13 reveals that in the case of Paget Rd this 50% addition has been made contrary to guidance, which states that even if as many of 20% of users are deemed to be vulnerable, the addition should not normally be applied. In the case of Paget Rd, only 2% (28/1182) of users were identified as 'vulnerable' (assuming that those listed in his 38.7 are those so identified).

Furthermore (having just looked at ¾ of them), in every *other* case where the 50% addition has been made in the reports on individual crossings at Fisk pp.10-284, this addition is *specifically referred to*, with a rational explanation of why it has been done (which in every case seems to comply with the policy instructions). Only in the case of Paget Rd has the addition been made *closetly*! **Are we really supposed to believe that there is no coincidence between the false application of the 50% here and the failure to mention that this has been done?**

The actual distances visible from each side of the line in each direction were shown in the photographs attached to our objection. These are (at the NR 2m decision point):

North (down) side of crossing to west	c.170m (as the train passes under the High St bridge)
North (down) side of crossing to east	c.270m *
South (up) side of crossing to west	c.190m (before the train passes under the High St bridge)
South (up) side of crossing to east	c.255m *

** These are measured by the position of the overhead masts in the photographs compared to their position on googlearth. Please note that our objection letter mistakenly gave these distances as 'over 300m'.*

NR (Fisk) gives these distances as 160m/240m/170m/83m, so except in the last case (which is considered further below) we and NR are clearly talking about the same thing. As radar figures, NR's measurements themselves will obviously be the more accurate, but the consistent

10% lower figures make us wonder if they are measuring the point where the *whole of the front of the train* becomes visible, rather than where the train is first visible?

Thus, using now the proper 169m figure (under NR rules) for the minimum permitted sighting distance, and not the falsely-obtained 256m figure, it will be seen that:

North side to east visible distance is considerably above requirements.

South side to west just meets requirements even on NR's 170m figure.

North side to west just meets requirements on our figure and is 10m short on NR's figure.

[Again, for south side to east see below].

As users, however, we would not actually feel comfortable with sighting distances only just meeting the minimum figures! – as these give no margin for the very few 'vulnerable' (slower) people. But the fact is that since all passenger trains began stopping at Wivenhoe in 1984, only the few empty trains running to Clacton depot would actually have been travelling at an average of 50mph between the station and Paget Rd. (And the very few *locomotive-hauled* down trains have a lower permanent speed limit of 35mph through Wivenhoe). The 95% of trains starting away from the station gave a lot more time for crossing over, if one appeared in the distance as a person was starting to cross, than the theoretical figures obtained from the 50mph maximum speed.

In the next section (on p.7) we show why a reduction of the 50mph maximum limit through the station is desirable on quite other grounds anyway, and by so reducing the speed of the few empty stock trains, the sighting from Paget Rd to the west would become fully adequate, on NR's own methodology.

Turning now to the sighting from the south side to the east. NR continue to claim that from the 'decision point' one can see only 80m (or 83m) to the east. This '80m' claim, which does not of course reflect the reality, is not explained in any documents presented to the inquiry, however we have learnt more in email correspondence with NR who have given several *different* 'reasons' for it. The initial reason was that a light engine (a locomotive with no train behind) would, after being visible previously, disappear from sight for a couple of seconds behind the southern abutment of the Anglesea Rd bridge (which is in principle true). It was however pointed out to NR that there are *no* regular light engine movements on this line, and that the probability of one appearing at the very same moment as someone was about to cross from the south side is infinitesimally small. (Up light engines also have a 30mph restriction).

Subsequently NR came back with another claim, that 'an 8-car train disappears from sight for a very short period', which is *totally untrue* – as it is for 4-car trains also. Then it was claimed that the *front* of the train must be visible continuously. The last might have some weight in cases where the rest of the train is only visible at a narrow angle, or where the background does not make the train stand out, but is scarcely relevant in this case where the full length of the train is visible at a *broad* angle, and all trains are of at least 4 car length.

Whether NR's latest '83m only' claim is based on light engines, or what, we do not know.

The real sighting distance from the south side to the east being approx 250m, it is well over the 169m minimum requirement (and even meets the NR false '50% added' figure').

Whilst NR's '2m from nearest rail' as the 'sighting point' is a very sensible *standard*, the actual point from which people look should be used instead if very slightly less.

REDUCING DELAYS TO TRAINS

With the more serious 2014-16 temporary speed restriction on the up line having now been lifted, this now boils down to the need for and impact of the (in theory) 25mph temporary restriction on the down line, compared to the previous 50mph speed limit (the latter speed only in practice achievable by those few trains that did not stop at Wivenhoe).

Why NR chose a figure as low as 25mph is unclear; they themselves give the available sighting distance from Paget Rd for down trains as 160m/170m, for which distance the acceptable train speed would be over 40mph, or around 30mph even with their false '50% extra' added in. [cf Fisk correctly quoting the sighting distance needed for 20mph as only 103m, even with the 50% added]. Unless they can produce some rational explanation, it would seem that this very low temporary limit is a piece of overkill designed to maximise the 'problem'.

On top of that, if NR were really highly concerned about the impact of this new 25mph restriction, it would seem odd that they have for three years now enforced it in practice as a 20mph restriction instead, purely because they still can't find any '25' signs in the store cupboard. Again, the restriction is imposed over the 80 metres *beyond* the crossing as well as on a similar length before it, but as people only get hit by the *front* of a train, the logic of this is not obvious. These two factors must have doubled the time lost by each down train, for no rational reason.

NR now say (E. Allgard 2.4.18) that the restriction has cost all down stopping trains some 40 seconds lost time. But it would be less than half of that had an *appropriate* temporary speed limit of 30-40mph been adopted!

The NR argument for having to retain a down restriction, when the up one has been lifted because of the installation of the Covtec equipment, is somewhat arcane. They state that it is impossible to locate the whistle board (and the Covtec equipment) at a typical distance from the crossing (e.g. at the end of the down platform 340m away) because the fact that a very few trains do *not* stop at the station means that (with the normal 50mph limit) these non-stopping trains would hit Paget Rd much quicker after sounding the horn than what users are used to from other trains. The actual position of the whistle board, just east of the High St bridge and only 160m from the crossing, is (as far as one can understand it) chosen because (again, with the 50mph limit) stopping trains would by then have reached a speed at which the time variation between them and non-stopping trains, from whistle board to crossing, was significantly less.

Now, with the current 25mph (alias 20mph) restriction, there is no need for a down whistle board at all! because the sighting distances are compliant. So one wonders why it has not been removed? **

Again, the general rule about whistle boards is that they are only to be provided in cases where the train cannot be seen soon enough for safety by a person at the crossing. That obviously means that a whistle board should always be *further* from the crossing than the point at which the train becomes visible. But even on NR's figures a down train becomes visible at 170/160m, and the whistle board is at 160m. So why is a whistle board provided here at all? **

** The answer, probably (?), is that the rules state that if a whistle board is provided in one direction, one must be provided in the other direction also; and the whistle board in the up direction is still deemed necessary by NR (but only because of the '80m' fallacy!).

Having now demonstrated that NR has been *deliberately delaying down trains more than necessary* since 2014, we must turn to the more immediately relevant question of how things can be more sensibly managed henceforth to reconcile different interests.

NR's response to WTC refers to the need for 'facilitating future speed increases', and the possibility of the line speed being increased for the benefit of imagined additional fast trains not stopping here**. But the 50 limit here is dictated by the reverse curvature, and the track through Wivenhoe station is already highly canted, to the extent that it already makes boarding / alighting from trains here difficult or even impossible for some people, and contains an element of risk for all, especially children and old people. **NR's case for needing to close the crossing is, on this 'future need' front, based on the time savings to postulated passengers who do not currently exist. It would be more appropriate for them to pay attention to the needs of the 300,000+ p.a Wivenhoe passengers who do exist. These H&S / equality issues at the station should enforce a *reduction* of the level of cant and thereby a lower speed limit** (and the actual absence of non-stopping passenger trains means that nobody would 'lose out' from this). **Saving a few seconds in the journey time of a few empty stock trains is not more important than station safety. The 50mph limit (quite high for the level of curvature) that has brought the high cant problem is now essentially pointless.** It is a relic from the past, when London-Clacton trains did not stop at Wivenhoe and there were many summer special trains to Clacton, and it was desirable not to slow such trains any more than necessary.

If there were, say, a standardised 35mph permanent restriction for *all* down trains through Wivenhoe, the required sighting distance from Paget Rd on NR's methodology would be 118m, well under the actual visible distance. Passenger trains starting away from the station would only be slowed by a few seconds, compared to the previous 50 limit. We suggested this in our objection, but NR *refuse to discuss* any suggestions for better ways of arranging the situation here, as 'the purpose of the order is to *close crossings*'.

Thus the needs of passengers and the needs of crossing users are in harmony, not in conflict.

** NR also now claims that major population growth in Tendring may enforce the provision of additional fast trains. But the new Tendring Local Plan is based on their main growth up to the 2040s being focused on the east edge of Colchester north of the University.

NOISE HARASSMENT OF WIVENHOE RESIDENTS BY NR

[The first two paragraphs are repeated verbatim from our objection letter].

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 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 backed up by both the ORR and NR at their site visit'. The cat was thereby let out of the bag.

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

The 3-second blast was in fact a national policy introduced after a 2006 Rail Safety & Standards Board report, itself provoked by a massive increase in public complaints on train horn noise in the early 2000s. However this new policy was in practice never adopted on this line until NR's intervention in 2016. NR now claim that it is 'a Greater Anglia instruction', but that is only true in the sense that it is GA's job to write the notices for the drivers following the orders from NR.

The overloud horns on the foreign-built trains introduced in the 1990s have not been replaced by standard UK horns, and on top of that the overnight 'quiet period' that was the concession to the public in the post-2006 policy has now been reduced from 2300-0700 to 0000-0600.

As discussed in the previous section, it is not really clear that there is any logical case for horn-sounding in Wivenhoe anyway. It seems to be based entirely on the '80m fallacy'.

It is presumably hoped that the Covtec equipment (which for some reason only makes a very *little* noise, at least currently) will before long become more than 95% reliable (otherwise it is a somewhat foolish purchase!).

It could also be argued that the violence of the current 3-second horn blast is more likely to *disconcert* anybody already on the crossing at the time and so be as likely to *cause* a fatality as to prevent one.

NR has not set out any case as to why they consider themselves (or TOCs) to be exempt from the legislation preventing noise nuisance.

USAGE FIGURES

The essential facts about Paget Rd are that the usage is far too high to justify closure on grounds of minimal usage, but not high enough to cause concern.

In our objection we commented on the fact that NR's 2012 survey (average usage 61 per day with virtually no children and few dogs) demonstrated a notable absence of 'vulnerable users'.

Since then NR have published full details of their second survey in July 2016 *. This produced significantly higher figures (average of 124 adults and 7 children per day). However one of the days chosen, 9th July, was Wivenhoe Regatta day, a wholly unrepresentative day on which many more people than normal walk down to the river front. This must be excluded, leaving a total of 831 adults and 38 children over 8 days, an average of 103 adults and 5 children per day

* From which it is evident that the selective 'facts' on this survey given out by NR in September 2016, and referred to in our objection, were all wrong.

(almost all the children *accompanied*). The 2016 survey was carried out in midsummer and every day was sunny / fine; the 2012 survey was carried out in autumn and three of the days were wet. The real average is therefore **likely to be between** the two sets of figures.

One real cause of increased usage could be the further new houses completed in the intervening period on the shipyard development. (On which point it might be noted that there is no possibility of any *further* housing development in the area below the railway, as there is now only marsh left).

We now find from proof of S. Tilbrook 1.8.2 that DfT instructions are (sensibly) that surveys should not be done in July and August, because of the likelihood of above-average usage then; but that despite this NR *on purpose* did the second surveys here in mid-July in order ‘to record the *maximum* likely usage’! – and then presented them as if they were representative figures.

When activity at a foot crossing does become too high, it is the duty of the railway to provide a footbridge in lieu. This was more accepted in pre-privatisation days. NR **however are making it clear that they will not even discuss footbridges now! We do not actively want a footbridge instead of the crossing, and it is not justified currently** – the matter is merely raised with reference to possible (but unlikely) future increases of both train and crossing user numbers.

NR are now claiming (without citing evidence) that there is ‘no space’ for a footbridge (Tilbrook p.73, Fisk 38.16). They may perhaps be referring to a giant ramped footbridge rather than an ordinary footbridge? The station footbridge would certainly fit between the fences here.

THE HIGH ST AS A DIVERSIONARY ROUTE

We would agree that if Paget Rd were to be closed, the High St would be as significant or more so as a diversionary route for former users than Anglesea Rd. That in practice means the *east* side of the High St, as only people to/from the area east of the High St would be using Paget Rd currently, and they would not in practice cross over the High St twice merely because the pavements on that side are better.

The east side pavement (or absence of!) in the High St makes it as a pedestrian route probably in much the same league as using Paget Rd, in terms of definable ‘safety’. *It would remain so even if the proposed NR works were carried out*, as there is no proposal to widen the narrowest portion of the pavement between the south abutment of the bridge and Alma St, or to do anything about the section with no pavement between Alma St and the churchyard gates, where there are also often vehicles left so that one cannot walk by the wall.

Also the Surgery traffic (see below) is about to *add* to the hazards of the east side pavement.

In addition, a large % of diverted Paget Rd users would have to continue via East St or Alma St. Neither of these have a pavement, and there are blind 90 degree corners at their High St junctions, where cars turn in on the *assumption* that there will be no pedestrians in the roadway.

APPENDIX: NR's PROPOSED HIGH ST WORKS

This is included as a supplement because it is not part of our case against closure, but rather an attempt to set out the mess into which ECC and NR have got themselves on this front.

Given that it is quite likely at the present stage that Paget Rd will remain open, it could be argued that consideration of the full details of the proposed NR works is best left to ECC/NR discussions later (so long as local people are involved then). Nevertheless these NR works are (in a vague way!) included in the draft order, and cannot be ignored in this inquiry. The powers which NR seeks during the implementation of the works also need inquiring into.

The whole situation with regard to this section of the High St is extremely complicated. In addition to NR's not-fully-revealed proposals for Paget Rd - related alterations, there are also:

(1) The longstanding proposal for the widening of the pavements over the railway bridge *, at NR's request, so that vehicles are forced to use the middle part of the present carriageway, in order to protect the decaying 1950s concrete bridge span, which is weaker at the edges than in the centre. ECC drew up detailed plans for this scheme in 2008, but since then progress has been prevented by NR's greed in demanding that ECC pay NR's legal costs for making the formal agreement, even though the whole scheme is for NR's benefit! Not surprising ECC has refused to give in to this outrageous demand.

* over the length of the bridge *span*, not over the full length of the parapet walls.

(2) The question of the 'entrance feature' needed to permit the implementation of the lower Wivenhoe 20mph zone. The other physical works for this zone were completed in 2011, but it has not yet been brought into use, because it is a requirement that all 20mph zones have such an entrance feature to psychologically slow down drivers. Normally the entrance feature would be adjacent to the entrance signs, here in position since 2011 by the Greyhound; but it is not possible to build it here so long as the bridge pavement widening scheme might go ahead, as it is not permitted to have two carriageway 'chicanes' within 50m of each other. NR's greed has therefore also succeeded in delaying the commissioning of the zone by 6 years already. The zone ought to have improved pedestrian safety in the section of the High St of concern to this inquiry, by slowing down southbound drivers; but it has achieved nothing on that front to date, as with no entrance feature drivers ignore the signs (which have no legal force anyway).

(3) The question of the much increased car traffic that will arise in Phillip Rd when the new Wivenhoe Surgery opens there shortly. This will add a notable *extra* hazard to people walking on the east side of the High St. Up to now the limited traffic in Phillip Rd has been mostly regular users who are familiar with the hazards of the High St junction, but the new Surgery car traffic will be mostly occasional visitors, many of them elderly drivers.

To a pedestrian walking along the High St east side pavement, it appears at this point to be a continuous pavement across the width of the Phillip Rd carriageway (which a visitor could walk across without even noticing that a 'road' was there, as it is not laid out in the normal manner of a road junction). Adult pedestrians have little, and child pedestrians no, warning that a vehicle is about to come out of Phillip Rd across the 'pavement'.

The driver of a vehicle coming out of Phillip Rd, in contrast, has no perception of there being a 'footway' across his route, on top of which it is necessary to drive the front half of the car blind over this footway before any pedestrians or vehicles in the High St become visible.

The E41 'design freeze' plan, to which NR keep referring us but which is actually of little use because of its small scale, actually shows an east side pavement widening to be effected *over the width of the Phillip Rd carriageway itself*. Whether that is what they actually intend is another matter!

It is not clear who owns Phillip Rd. NR state in the design freeze plan that it is a 'Network Rail private road', but in their draft orders (Key Plan 05 in NR08) it is listed as a public road owned by ECC.

As for ECC, they have just confirmed in an email A. Southgate to Cllr J. Young that they are not minded to take any action to minimise the increased pedestrian / vehicle conflict at the Phillip Rd junction. These matters would normally be considered in the planning application for a new development, but the conversion of the Phillip Rd old school building to a Surgery did not need a planning application.

In addition to the above complications, all attempts by us to secure any constructive progress are handicapped by the fact that, with the passage of years, nobody in ECC now has full knowledge of all the above. Even less is NR fully informed – it is clear that the 'level crossing closures' section of NR has not even heard of the 2008 ECC/NR scheme for widening the pavements on the bridge. (They state this in their response to WTC – 'We have consulted the available records and have been unable to trace any approach by ECC to implement improvements to the High St bridge'). On top of which, whereas the NR bridge engineers have been DEMANDING the widening of the pavements on *both* sides, the NR level crossing closure people are now telling us that it is IMPOSSIBLE to even widen the pavement on *one* side of the bridge for its full length, and that they can only provide short build-outs at unspecified points.

ECC have also now advised that they have not yet had any full discussions with NR about High St works, although one might think that they ought to have been involved in the recent considerations leading to the 'build outs' idea.

In contrast we are now told by NR (S. Tilbrook pp.72/3) that they have had regular discussions with ECC on this and that a specific scheme has been evolved which ECC have provisionally approved!

If and when the two sections of NR ever discuss matters, it is quite likely that the bridge engineers' concerns for the safety of the bridge may triumph over the level crossing closure section's idea that it is not possible to reduce the carriageway width throughout.

Turning now to what might properly be included, regarding the High St, in the approved order, it has been made clear by NR that they do not intend to reveal any definite scheme to the inquiry, but wish to rely on Schedule 7 (4) and (5) under which they may draw up any scheme they wish subject only to the requirement for it to be approved by ECC as Highway Authority. Under this local people with a detailed knowledge of pedestrian and vehicle needs in the High St would seemingly have *no* opportunity of involvement. Additionally, if ECC do not answer NR's email within 28 days, they are deemed to have approved the NR proposals.

The order also needs to be amended to make it a requirement that the High St works are carried out PRIOR TO a closure of Paget Rd, in the same way that the opening of the alternative public footpath routes is already so required everywhere under the current wording.

Regarding the Paget Rd to Phillip Rd link, there is nothing to be added to our objection comment that this would be a useful new link, especially for access from the east to the new Surgery; but it is not relevant to the journeys of most current Paget Rd users.

As to the powers sought to temporarily occupy land in the High St during the implementation of the works:

- The 70m length of land shown (24 25 26) seems considerably in excess of what would really be needed for a worksite for such a small job.

- There must be a specific prohibition in the made order that no closure of the High St as a through route is to be permitted outside of the night hours, say 2100-0500. With the large population that now exists in 'Wivenhoe below the railway', there is no alternative route capable of handling the daytime car traffic. The only alternative route is via Anglesea Rd - Brook St - East St, involving several blind corners and several sections where it is impossible for two vehicles to pass each other.

It is now stated in proof of A. Kenning p,64 that NR has no intention of closing the High St at any stage. In which case they do not need such powers in the order!