

TRANSPORT AND WORKS ACT 1992

**TRANSPORT AND WORKS (INQUIRIES
PROCEDURE) RULES 2004**

**THE NETWORK RAIL
(ESSEX AND OTHERS
LEVEL CROSSING REDUCTION)
ORDER**

**DANIEL FISK
REBUTTAL OF
PROOF OF EVIDENCE**

-OF-

PETER KAY AND CYRIL LIDDY

Document Reference	NR31/4/1 Crossings: E41
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Network Rail (Essex and Others Level Crossing Reduction) Order

I have reviewed the Proofs of Evidence of Wivenhoe Town Council representatives Mr. Peter Kay (OBJ/029 – W1 – 1) and Mr Cyril Liddy (E41 Paget Road OBJ59). I have the following comments on the evidence as presented:

1. At pages 5-6 of Mr Kay's proof, he discusses 'safe' distances for train sighting, and the sightings available at Paget's Level crossing. He states, at page 5, that they do not know the basis on which Network Rail makes such calculations. The process for working out the required sighting and the pedestrian traverse time for crossing a level crossing is explained in my proof of evidence NR31/1/3.15 to 3.20
2. The sighting as recorded in my proof of evidence NR31/1/38.9 shows while standing on the upside you can see a train approaching from 170 meters and when standing on the downside you can see a train approaching from 160 meters. These recorded sightings are slightly different to the sightings recorded in Mr Kay's Proof of Evidence. It is vitally important the recorded sighting is taken from a point where the level crossing manager is absolutely sure the train would be clearly visible to a user of a crossing, and as I describe in my Proof of Evidence.
3. The whistle board on the down road (London side of the crossing) is in fact within sight of the crossing as Mr Kay identifies in his Proof of Evidence. . When whistle boards are positioned at a crossing it is usually to mitigate insufficient sighting. At this crossing, the insufficient sighting which the whistle boards were installed to mitigate is that for a train approaching in the up direction (Arlesford to Wivenhoe). However, when Network Rail installs whistle boards to mitigate non-compliant sighting in one direction, it is also an ORR requirement that a second whistle board is also provided to the opposite approach (irrespective as to whether sighting in that direction is restricted or not) so as to ensure that all users of the crossing receive audible warnings of all approaching trains when using the crossing.
4. Section 3 above, is the reason the speed restriction on the down side is 20 mph and not 25 mph, nor is it meant to be 25mph, as suggested at pages 4-5 of Mr Kay's Proof of Evidence. The speed restriction of 20 mph ensures the audible warning provided by means of the whistle boards and Covtec systems give a user of the level crossing a warning of 11.5 seconds. This is only 0.1 of a second longer than it would potential takes a vulnerable user to cross the railway and be 2 meters clear of the furthest line. However with Greater Anglia's instruction for drivers to sound their horn for 2 seconds on the approach to a whistle board and for 1 second afterwards, this increases the warning to 13.5 seconds which 2.1 seconds longer than it could take a vulnerable user to cross the line and be 2 meters clear of the furthest line.
5. Further, the 20 mph speed restriction enables the whistle board to be positioned in a suitable place to ensure the train driver has a clear view of the board to ensure he provides an adequate warning. It also gives Network Rail room to position the radar near the whistle board which detects a train and sends the signal to the Covtec system to sound the warning, thereby ensuring that adequate warning is also provided by this system. .
6. Mr Kay also suggests, at page 7 of his Proof of Evidence, that the '3 second blast' sounded by train drivers at the whistle boards was deliberately introduced by Network Rail in 2016. This contention is also raised by Mr Liddy at paragraph 19 of his Proof of Evidence we have held numerous discussions with Greater Anglia raising concerns that drivers were not sounding their horn at Whistle boards as they should, I have personally been out at crossing where a whistle board is provided and

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I did not hear a train sound its horn while standing at the crossing, this was very alarming to me, as it is the only means of warning a member of public a train is approaching as normally the crossing does not have the required sighting. After investigation by Greater Anglia the drivers did sound their horn but not for a sufficient time so that it was clearly audible at the crossing. Following numerous reports of similar incidents Greater Anglia made the decision to standardise the rule and brief the drivers that must sound their horn for 2 seconds on the approach to the whistle board and 1 second afterwards. Following this instruction we have had very few reports of whistle boards not being obeyed. This instruction from Greater Anglia did coincide with a rules change to the night time quiet period which changed the quiet period from 23:00 until 07:00, to 00:00 to 06:00. Our census have shown a reasonably large number of users still use the crossing between the hours of 23:00 and 00:00 and 06:00 to 07:00, this number seems to dramatically reduce between 00:00 and 06:00. Nationally there have been 4 fatalities during the NTQP since its introduction in 2007 and 64% of near misses at passive crossings during the NTQP occur during these shoulder hours, this statistics support the change in the interest of public safety.

DECLARATIONS

I hereby declare as follows:

This proof of evidence includes all facts which I regard as being relevant to the professional opinion which I have expressed and I have drawn the inquiry's attention to any matter which would affect the validity of that opinion.

I believe the facts which I have stated in this proof of evidence are true and that the opinions are correct.