Affiliated to Peak and Northern
Footpaths Society

PROOF OF EVIDENCE
RELATING TO THE CLOSURE OF MOORGATE LEVEL CROSSING ON BEHALF OF WEDNESDAY WALKERS (OLDHAM), PEAK AND NORTHERN FOOTPATHS SOCIETY AND SADDLEWORTH PEDESTRIANS

THE NETWORK RAIL (STALYBRIDGE TO DIGGLE (SADDLEWORTH) ENHANCEMENTS) TRANSPORT AND WORKS ACT ORDER.

Ref: TWA/25/APP/02/OBJ 117, 259, 193

Kevin Lawton BSc, CEng, MICE (Ret'd)
1 May 2026

1.0 Background

1.1 My name is Kevin Lawton, and I am an objector on behalf of three walking groups with a total of c.2,000 members to the use of path 244 as the alternative to the closure of the Moorgate Level Crossing. I am not acting as an expert witness.

1.2 I have noted that there were 126 objections and 5 representations made opposing the closure of the level crossing. There were no submissions supporting the closure of the crossing with 244 as an alternative and most want a footbridge.

1.3 We are not opposed to the upgrade of the railway or the eventual closure of the level crossing. We want the route of path 209 retained on its current alignment and not via a longer, unsafe and circuitous route. This can be achieved with a footbridge.

1.4 My Statement of Case (SoC) and comments on Network Rail's (NR) SoC in the appendix, set out the details of my objection, and I now submit this Proof of Evidence to address sections 3a, 4, 6d & 7c in the Statement of Matters issued by the Secretary of State.

2.0 Effects of the Scheme on public rights of way – 3a

2.1 NR has not properly addressed our objections and in relation to their proposal to use path 244, they commissioned two additional reports in February 2026: a Road Safety Audit for the exit of 244 at Oldham Road, which was included in their SoC, and a new Diversity Impact Assessment (DIA) for the use of 244, which was referred to but not included. Both these reports are evidence, as well as the Highway Report of June 2025 and the Safety report of September 2025, that NR was trying retrospectively to justify a decision made some three years earlier. More importantly, I draw attention to section 3.1 of the Road Safety Audit (NR 87) which states that the recommendation is 'based on only able-bodied pedestrians' being able to use 244. This is further documentary evidence that 244 is not a suitable replacement for the users of 209, which from NR's own survey, was used by vulnerable people.

2.2 Revised proposals are included for the works to 244 which are illustrated using CGI. No detail drawings are included, and I received confirmation from NR on 16 March 2026 that there aren't any details and that: 'The planning drawings may be subject to amendment as the design progresses'. There is therefore no guarantee that the illustrated improvements can actually be achieved. The CGI appears to show the risers and tread depths the same so the steps would not comply with any relevant standard. These proposals do not satisfy the criterion of the alternative route being 'suitable and convenient'. The proposed improvements are only between the bridge and Ladcastle Road and given the topography of the path and the location of the proposed compound area, I cannot see how it will be physically possible to access the valley site with equipment to carry out the work, and there is no indication how surface water run-off will be dealt with at Wickens Bridge. Crucially, no acknowledgement is made of the need to agree the permanent dedication of the extra width now proposed for 244 with the landowner.

2.3 The NR SoC also now contains many contradictions about the length of the diversion and the time it will take to walk it. The original consultation suggested an extra distance of 440 metres, which seemed reasonable. The time to walk it was said to be 6 minutes but given the uphill gradient of 244 I have suggested that it would take up to 10 minutes. I pointed out in my SoC an error in the draft TWAO – Environment Report 10.4.30 which states 200 metres extra. Now we have in 8.2.3.3 that the extra is 300 metres and will take 3.5 mins to walk it. This is clearly not correct and is very misleading.

2.4 There were 20 objections to the adequacy of the initial consultation carried out by NR and I suggest that NR's response to objections is similarly inadequate. In relation to the Moorgate footbridge, NR just keeps repeating the arguments we have heard for the last three years. The promised discussions with us as an 'interested party' never materialised as NR was sticking to its decision not to reconsider a footbridge and are now leaving that task to the Inspector at a Public Inquiry.

2.5 The recent Road Safety Audit suggests that additional signage is required which demonstrates that the original Safety Risk Assessment was not adequate. It concludes that with signage and relocation of the 20mph limit, 'no material increase in risk to road users will arise'. In 8.2.3.21 of the SoC there is an admission that a sign cannot be placed in a location to be effective and that the risk level may increase, but 'the introduction of a lower speed limit may also reduce the severity of a potential collision thus neutralising levels of risk'. I note the use of the word 'may' so there is no guarantee that this completely 'neutralises' or removes the risk as suggested. The proposal still transfers a rail safety issue to a highway safety issue which is unacceptable.

2.6 NR is trying to argue that path 209 was not well used and in 8.2.1.3 states that 'usage was not considered high' and in 8.2.3.18 that usage was 'not one that would be deemed as heavy usage'. However, this is contradicted in 8.2.2.7 where it states that 'it was well used'. NR's own pedestrian survey showed a usage of 40 per day which I would suggest is high usage and this was confirmed by a Planning Inspector in case ROW/3303492 where a similar usage was considered. Then there is a cynical attempt to diminish the usage figure by suggesting that 40 per day equates to just 3 per hour if spread over 12 hours. Cyclists also used 209, which as an Ancient Highway would be legal but they could not use 244 as the designation is footpath only and there would be steps to negotiate.

2.7 Other contradictions showing bias relate to the descriptions of paths 209 and 244. 209 is described in 8.2.2 as having 'a variety of surface types with very steep gradients to be navigated' and 'unsuitable for those with limited mobility' and in 8.2.3.1 that it is 'un-made ground' and 'overgrown in sections'. Then in 8.2.3.10 the gradient of 244 is merely described as being 'reflective of the wider Saddleworth topography' and no mention of steps. I suggest the descriptions should be the other way round.

2.8 Path 244 exits at Oldham Road through a private garden and driveway and there has already been a near miss with a path user and a manoeuvring car. Then on 4 March 2026 there was a vehicular collision with the garden wall at the exit which proves our assertion that this is a safety risk. The statement in 8.2.3.23 that the use of path 244 'does not adversely impact private land' is very obviously not true.

2.9 I note that many objectors have used Dark Lane (209) for decades, some with disabilities, and not a single objector has mentioned any difficulty in using that route. Many have pointed to the danger of using 244 and nobody has supported the use of 244 as an alternative. I therefore disagree with the comment in 8.2.3.8 that 244 would be a 'safe, enjoyable and scenic' alternative or in 8.2.2.27 that it would be 'an equivalent experience as footpath 209', or in 8.2.2.24 that it would be 'an acceptable response'. There is an acknowledgement in 8.2.3.4 that it will be necessary to 'mitigate' the current gradient and condition of 244 but 'mitigation' implies that the proposals offered are not a solution. 209 does not have any steps and was used as the main public access to the Moorgate Halt railway station for 43 years.

2.10 Reference is made in Section 6 of the SoC to the proposed Government reforms to the National Planning Policy Framework, but I would draw attention to policy T8: Public Rights of Way which states that proposals should 'Maintain the network of PROWs including through suitable diversions agreed with the highway authority'. In this case closing path 209 and using 244 as an alternative has not been agreed with Oldham as Highway Authority. Moreover, Oldham refused a closure application in 2024 and is an objector to this TWAO.

2.11 Section 14.2.4 of NR14 suggests that the upgrade of 244 is an example of 'embedded mitigation'. I am not sure what this means, but 'mitigation' implies that inherent problems with that route have not actually been resolved.

2.12 NR14 Vol.3 (2,639 pages!) suggests in Appendix 10A, page 59, that the level crossing will be used as the alternative route whilst work is carried out on Wickens Bridge – and, if approved, for works on 244 itself. Does this mean that there are no safety issues with the crossing until the route is upgraded? If so, then it should not have been temporarily closed. It is also suggested that using 209 for the diversion of 244 will add 13 minutes to the walking time. How does that relate to the argument in 3.12.10, and in 10.4.30 of Vol 1, that it will only take 2 minutes to walk it the other way round?

2.13 I referred in section 6.5 of my SoC to various other TWAOs where level crossing closures had not been approved. Those decisions set precedent and ought to mean that the closure of Moorgate is similarly not approved. I specifically refer to the Secretary of State's decision in relation to the proposed closure of level crossings in Essex and his agreement to the tests to be applied which were set out in section 16 of the decision letter of 16 March 2022, as follows, and should mean that the closure of Moorgate level crossing with path 244 as the alternative is similarly not approved.

The tests to be applied

16. The Secretary of State notes the Inspector's conclusion that there are two stages to the consideration of the Order (IR 2.80). Firstly, the strategic case for the Order must be considered (IR 2.79); this includes consideration of the merits of NR's case in relation to the making the Order under section 1 of the TWA (IR 2.80). Secondly, if this is accepted, then each crossing should be evaluated against the tests set out in section 5(6) of the TWA, namely, whether an alternative route is required (IR 2.80) and, if so, whether that alternative is suitable and convenient (IR 2.87), as part of reaching his overall conclusion for each crossing, citing guidance that "[i]f an alternative is to be provided, the Secretary of State would wish to be satisfied that it will be a convenient and suitable replacement for existing users" (IR 2.82). The Secretary of State further notes that both NR and the Ramblers (OBJ-148) are in agreement with this two-stage process (IR 2.54, 2.73, 2.77). The Secretary of State agrees it is appropriate.

2.14 Costs of a footbridge. NR had planning consent in 2022 for a footbridge to replace the crossing but then abandoned that citing costs of £4.5 m which were not considered value for money.

2.15 NR's SOC now includes in Appendix 4, a third attempt to justify the £4.5 m cost of a footbridge. All remarkably coming to £4.5m! This is somewhat unbelievable given the change from working out-of-hours over a period of 8 months to carrying out the work from road/rail vehicles during line closures, which from the following email from Penny Carter could be up to 20 weeks. This would be sufficient time to construct a footbridge at Moorgate.

From: Penny Carter <Penny.Carter@networkrail.co.uk>
Sent: 09 September 2025 3:18 PM
To: Kevin Lawton [redacted]
Cc: W2b TRU Stakeholder Management Inbox <w2btru.stakeholder@atkinsrealis.com>
Subject: FW: Moorgate Halt level crossing

OFFICIAL

Hi Kevin

Regarding Greenfield Station, the proposed construction methodology is as follows:

1. Remove the existing station footbridge
2. Install the new station footbridge
3. Install the new pedestrian highway bridge
4. Install the new highway bridge

The above phasing of construction is set out as the above to minimise the road closure which is 16-20 weeks.

We apologise for the delay in responding to the matters relating to costs and boreholes and we will respond as soon as we can. Regarding the meeting with James Richardson, please could you clarify what the purpose of the meeting is as James might not be the member of the team to meet with?

As part of the Order application, Network Rail will be submitting a Consultation Report which summarises the consultation process undertaken during the scheme development. The report won't set out any feedback from the information event as it was an event for information only and Network Rail wasn't inviting feedback to its proposals. The purpose of the event was for Network Rail to present its proposals before it submits the Order application to the Secretary of State.

Regards

Penny

2.16 As stated in my SoC, I was advised in a FOI that the December 2025 cost was ‘created in response to my request’ as they did not have any detail as to how the original figure was arrived at. There was therefore no valid reason for the decision to abandon a footbridge. I believe that costs ought to be much less and it is just the provision for risk that takes it back to £4.5m.

2.17 Cost is a vital element in the reason for NR abandoning the idea of a footbridge and if the Inspector determines that it is a material issue for him to consider, then I trust that he will accept my evidence that NR’s figures are not valid and that a footbridge can be constructed for much less than a nett cost of £4.5m. Alternatively, if the Inspector concludes that the use of 244 is not acceptable, then the closure of the crossing should not be approved and either a footbridge should be required as part of the TWAO, or it would be up to NR to come up with a safe solution, and this would include the option of a footbridge at whatever the cost.

2.18 I accept there are some difficulties in constructing a footbridge at Moorgate, but it is clearly possible to install one and we have repeatedly tried to work with NR to find a cost-effective solution. The SoC section 8.2.2.33 confirms that a bespoke solution had been prepared by NR. We need to see a true costing for this. The decision to abandon the footbridge should not just be based on ‘value for money’ as a footbridge should be seen as an essential part of the works. In this regard, I referred in my SoC to the huge bridleway footbridge built at Barrowby Lane where the ground conditions were much worse than at Moorgate, and I note that in this TWAO there is the completely new footbridge at Greenfield Station and 3 footbridges in Tameside to be rebuilt, including two with difficult ground conditions. Then there are 4 to be rebuilt in the recently advertised Marsden to Huddersfield section. Why not at Moorgate?

2.19 I am not clear what the expenditure of £584,000 (Dec ’25) and £296,600 (Feb ’26) for removing the level crossing in the footbridge costs relates to as there is no similar cost for doing that work in the path 244 costs – but there should be. This means that taking the February 2026 figures, the basic cost of a footbridge would be £2,797,100, less £176,000 for works to 244 not required and £296,600 which should have been included in the costings for 244 – a nett figure of £2,324,500 which is almost half the £4.5m quoted.

2.20 Section 8.3 of NR’s SoC refers to options considered for the replacement of the Stockport Road level crossing in Mossley. The option of a footbridge, which has piled foundations and difficult access, is stated to be £1.2 million. This cost does not include an element for risk and again illustrates how exorbitant the costs quoted for Moorgate are.

3.0 Public Sector Equality Duty (PSED) - 4

3.1 Network Rail, the Inspector and the Secretary of State all have individual responsibility to comply with PSED and as I have outlined above and in my SoC, NR has not considered this in relation to the use of path 244 as an alternative

route. NR's own survey showed the Moorgate crossing had a high usage by vulnerable people.

3.2 Despite there being a requirement for NR to carry out a DIA for the use of path 244, this has not been done. It is stated in 8.2.2.29 that an updated DIA for path 244 was produced in February 2026 and that it shows that 'The DIA's proposed mitigations associated with the opportunity to upgrade footpath 244 aligns with the proposed footpath 244 upgrade design submission'. But there is no design submission. Not only that, a FOI response I received on 31 March 2026, confirms that a DIA has not been completed and that it is not likely to be available until mid-May. The NR statement is therefore NOT TRUE.

3.3 I accept that a footbridge will introduce some steps on to path 209, but not as many as proposed for 244. Crucially, all other aspects of 209 would remain the same and safe, whereas the safety issues with 244, and the impact on adjacent private property, cannot be solved. There would also be no increase in walking distance or time by retaining 209. A footbridge with steps only on one side is seen as a reasonable compromise. Limited well-designed steps and handrails at a footbridge would be safer and more convenient for walkers than the steep flights of steps and unprotected steps proposed for 244.

4.0 Historic Environment – 6d

4.1 No proper recognition has been given in NRs SoC to the historic significance of path 209 and for the efficiency of the inquiry this aspect will be covered in more detail by other objectors.

5.0 Availability of funding – 7c

5.1 I have tried through FOI to establish what level of risk is included in the overall budget of £225m for this section of the TRU and I received an answer on 30 March 2026 that NR does not hold this information. It was then stated that: 'the information in the NR06 Estimate of Cost, was prepared in accordance with the requirements of Rule 10(3)(b)(ii) and Schedule 3 of the TW (Applications and Objections Procedure) Rules 2006'. I have looked at these documents and there is no requirement or provision to allow for risk. This confirms that none of the other projects in this TWAO have any provision for risk, which means that it is totally unreasonable to only add allowances for risk to the costs of a footbridge at Moorgate and then use this as the sole reason to argue that it is not value for money.

6.0 Conclusions

6.1 I invite the Inspector to reject NR's TWAO application to close the Moorgate level crossing with path 244 as the alternative route on the basis that 244 is not a suitable and convenient alternative for the users of the crossing. I believe that I have submitted compelling evidence in my Statement of Case to justify that decision, which in summary, is based on the following:

- Unsubstantiated and exorbitant costs to construct a footbridge as originally planned by NR – used as the sole reason to abandon a footbridge. No other project has been rejected on the basis of risk
- Retrospective reports have been commissioned to try and justify the decision made three years earlier to use path 244
- In relation to the exit of path 244 on to Oldham Road the road safety report actually limits the use to 'able bodied' and only suggests mitigation, not a solution. The route cannot be made safe and passes through a private garden and shared driveway
- PSED and NR's own policy requiring a DIA to be carried out were not complied with
- There are biased descriptions of the two paths affected, differing interpretations of usage and contradictory distances and times to walk the alternative route. No objectors have identified any problems in using the existing route over the crossing
- A footbridge would remove all possible rail safety concerns with the crossing
- Previous TWAO decisions confirmed by the Secretary of State in other areas have rejected the closure of level crossings due to the following various negative impacts, **all of which apply to the Moorgate crossing:**
  - Impacts on users
  - Number and type of user, whether utilitarian or leisure, whether mobility impaired including non-visible impairments
  - Whether usage affected by proposed surface materials, steps, gradients and length of route
  - Changed nature of the route and whether the diversion is straight forward and logical
  - Connectivity to remaining network of paths
  - Consideration of NR's DIA (one hasn't been done for 244)
  - Highway safety and lack of footways

6.2 Finally, I believe that it would be wholly wrong for the inspector to discount the formal views of Oldham Council as statutory authority for rights of way, that path 244 is unsuitable and unsafe as an alternative to path 209.

7.0 Appendix

7.1 I attach as a separate document, an appendix commenting on NR's SoC.