

APPENDIX TO PROOF OF EVIDENCE

COMMENTS ON NETWORK RAIL STATEMENT OF CASE 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)

Context and contents

This document was originally submitted and issued to all parties on the 24 April 2026 in accordance with TWAO procedures, but I was subsequently advised that the Inspector would prefer it to be incorporated into my Proof of Evidence. It is a document that deals with the significant new information and contradictions in Network Rail's Statement of Case.

1.0 Background

- 1.1 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. We are making a case for a footbridge.
- 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. Just one person did not support the provision of a footbridge, preferring instead that the crossing is retained.
- 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 I have submitted a Statement of Case (SoC) and I note that there are another 10 SoCs objecting to the closure of the crossing.

2.0 Network Rail Statement of Case

- 2.1 The first observation is that NR has not properly addressed our objections and in relation to their proposal to use path 244, they have 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 yet completed. The late addition of these reports is further evidence of retrospective attempts to try and justify a decision made some three years earlier and in my view they do not do so. More importantly, I draw attention to section 3.1 of the Road Safety Audit (NR 87) which specifically 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 alternative for the users of 209, which from NR's own survey, was used by a high number of vulnerable people.

- 2.2 I also note that 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 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 and as a minimum, would have to extend twice the distance shown. The proposed improvements are only between the bridge and Ladcastle Road and given the topography of the path and the proposed compound area, I cannot see how it will be physically possible to access the valley site with plant and equipment to carry out the work. There is no indication how surface water run-off will be dealt with at Wickens Bridge and no acknowledgement of the need to agree the permanent dedication of the extra width now proposed for 244 with the landowner. Planning consent and approval of structural details would be required from Oldham.
- 2.3 Many other changes have been included in the NR SoC relating to compounds and work access points. Much of the information is contradictory such as between Section 7 of the SoC and land use sites in the TWA0 Application (NR 09) compared with the descriptions in Section 12 – Appendix 2 of the SoC. No discussion or advance notice was given of these changes.
- 2.4 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 TWA0 – 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.
- 2.5 Across the whole TWA0 application 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.

- 2.6 The recent Road Safety Audit (NR87) 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'. What about risk to vulnerable walkers? In 8.2.3.21 of the SoC there is an admission that a sign cannot be placed in a location where it would 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.
- 2.7 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, as I refer to in 2.2 above, there is no design submission. Not only that, a FOI response I received on 31 March 2026 and attached as Appendix 1, confirms that a DIA has not been completed and that it is not likely to be available until mid-May. The NR statement in 8.2.2.29 is therefore NOT TRUE.
- 2.8 NR is now 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'. In Vicki Bentley's application dated 4 August 2023 to Oldham Council for a Rail Crossing Extinguishment Order she states that 'The crossing receives a very high volume of usage'. 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.
- 2.9 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'. I suggest the descriptions should be the other way round. The description of 209 is also at odds with the description in NR's planning application for a footbridge which states that it is an 'important recreational route' and 'a popular route for recreational purposes'.

2.10 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 to the conditions. Path 209 does not have any steps and was used as the main public access to the Moorgate Halt railway station for 43 years.

2.11 I draw specific attention to objection no. 62 from a local resident on Ladcastle Road, whose access has been directly affected by the temporary closure of the crossing and who makes a compelling case against the permanent closure. His objection has not been addressed in NR's SoC, and it is simply listed with all the others relating to the crossing.

2.12 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. Photo of the damage as follows:



The statement in 8.2.3.23 that the use of path 244 'does not adversely impact private land' is very obviously not true.

2.13 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 an application to close 209 in 2024 and is an objector to this TWAO.

2.14 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.

2.15 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 the level crossing can be re-opened and 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?

3.0 Costs of a footbridge

3.1 NR's SOC also 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. I attach on page 10, a comparison of the various estimates and my suggestion that the costs ought to be much less. The basic bridge cost is now over £1m less and it is just the provision for risk that takes it back to £4.5m.

3.2 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 add an allowance of £1.76m for risk to the costs of a footbridge at Moorgate and use this as the sole reason that it is not value for money.

- 3.3 NR's SoC (NR30) s2.6 explains the arrangements for funding this scheme and that it falls in railway investment Control Periods CP7 & 8. The Office of Rail and Road (ORR) have advised me (Appendix 2) that risk on TRU is funded separately from CP7 and that it is funded from the Rail Network Enhancements Pipeline. TRU will therefore hold its own contingency and risk budgets. There is therefore separate funding available to cover risk on this section of TRU.
- 3.4 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. I am therefore very puzzled as to how it is that in document NR30 – Level Crossing Risk Assessment, dated August 2024 at Appendix 3 of NR's SoC there are the exact same figures for a footbridge that are in Appendix 4 of NR's SoC, and which was only made available in February 2026!
- 3.5 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 will be up to NR to come up with a safe solution, which would include the option of a footbridge at whatever the cost.
- 3.6 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. NR 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 idea should not just be based on 'value for money' or Cost Benefit Ratio but 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?
- 3.7 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 as there would still be work to do on path 209 to cure drainage problems and to retain the western section as a permanent maintenance access route to the railway. 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. There should be no inclusion for lighting as this is not required.

3.8 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 confirmed in a FOI dated 9 April 2026 to be a generic cost of £1.2 million. This cost does not include an element for risk and again illustrates how exorbitant the costs quoted for Moorgate are.

4.0 Public Sector Equality Duty (PSED)

4.1 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. Recent Government statistics show that almost 1 in 4 people are registered disabled and this rises to over 1 in 2 for older people. Some disabilities are 'unseen', particularly on camera surveys, and NR's own survey showed the Moorgate crossing had a high usage by vulnerable people. NR has not complied with its own policy to carry out a DIA for the use of path 244.

4.2 Rail Safety does not override the obligations under PSED or the Equality Act 2010.

4.3 I accept that arguing for a footbridge to replace the level crossing 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 the exit of 244 at Oldham Road, 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, regular spaced steps with handrails on a footbridge would assist some people with mobility issues and would be safer and more convenient for walkers than the steep flights of steps and unprotected steps proposed for 244. A colleague with sight impairments will cover this in more detail at the Inquiry.

4.4 Rights of Way Circular (1/09) draws attention to the Rights of Way Improvement Plans to be prepared by local authorities and although Oldham's Plan has not been updated, but currently available on its website, its Objective 2: 'Connected, safe and accessible routes for all users', is still relevant. Circular (1/09) also covers requirements for rail crossing orders made under Highway Act powers and I believe that issues such as 'convenience for users', 'the safety of the diversion, particularly where it passes along or across a highway', and considering the impact on 'persons whose properties adjoin' the route, are all equally relevant to this application.

5.0 Historic Environment

5.1 No proper recognition has been given in NRs SoC to the historic significance of path 209 and I draw attention to the fact that the Uppermill Conservation Area encompasses both paths 209 and 244 east of the railway. Doc. NR14 Environmental Report Vol. 1 in 2.1.8 lists this Conservation Area as Cultural Heritage. In Section 5 – Table 5-1 Conservation Areas are defined as: 'Medium or high importance and rarity, national or regional scale, limited potential for

substitution' and is listed as a Heritage example. Other speakers at the Inquiry will cover this in more detail.

6.0 Other Statements of Case and Objections

6.1 The level of objection to the proposed permanent closure of the Moorgate level crossing ought to be reflected in the Inspector's consideration of it – 126 out of 255 objections; 5 out of 14 representations; 11 out of 23 SoC. I also note the wide range of people making these submissions, from walking groups, local residents, local politicians, Parish Council, doctors, mountain rescue personnel, historians and people with technical knowledge. Most important is the objection from Oldham Council as statutory body responsible for rights of way. Their objection was formally approved at a Council meeting on 25 March 2026.

7.0 Conclusions

7.1 I believe that NR's SoC is a cynical attempt to try retrospectively to justify a decision made three years earlier to abandon the idea of a footbridge. They have introduced descriptions of paths 209 and 244 to try and equate the two which is not possible and have made attempts to try and show that the exit of 244 on to Oldham Road is safe. The Mayer Brown reports and recent issues have proved that it is not safe. There are then more subtle changes to the descriptions of the paths and the length of the diversion and time taken to walk it. These and comments about usage of the path contradict earlier statements made by NR when they were supporting the planning application for a footbridge. They have failed on all these issues.

7.2 Even after three attempts, and over a period of 12 months, NR has been unable to justify the estimation of £4.5 million for a footbridge. This cost was used as the sole reason for abandoning the idea of a footbridge. It is not valid to add an allowance for risk, which may not need to be spent, to the cost of a footbridge at Moorgate when no such addition has been made to any of the other proposed works in this TWAO. It is also surprising that risk is added to the costs of design and project management. Based on the February 2026 figures below, this would give a cost for the bridge of £2.8m. The estimated costs for work on 244, which I believe are understated, should also allow for removing the level crossing and can be offset against the footbridge costs giving a nett cost for a footbridge of less than £2.3m. This would be little more than NR anticipated spending on a footbridge when they initially proposed one.

7.3 I remain unconvinced as to the validity of the current costings for the footbridge. What works do they include? Do they allow for working whilst the railway is closed rather than out-of-hours for 8 months? Why are there major changes in costs within a two-month period between December 2025 and February 2026. Why do they all remarkably end up at £4.5 million?! I believe that it is essential for the Inquiry to know what the true cost of constructing a footbridge at Moorgate would be.

- 7.4 NR did not carry out a DIA to assess the suitability of using path 244 as an alternative to the closure of the level crossing before making a decision 3 years ago. This is in breach of PSED and NR's own diversity policies. There appears to be an assumption that when the DIA is available in mid-May, it will justify the use of 244 as an alternative route. **What will NR do if at that late stage it doesn't?!**
- 7.5 NR has not made any attempt to discuss or 'engage' with us about our objection and has instead maintained a line that they will not reconsider a footbridge. This is reflected in email exchanges and the consultation report (NR07). It appears that there will be no discussion with NR before the inquiry as their Barrister at the Pre-Inquiry meeting on 17 April 2026 confirmed that NR would not be contacting objectors but would respond to SoC in their Proof of Evidence. I am not therefore expecting any co-operative approach from NR, other than to agree Statements of Common Ground. I will therefore do the best I can to continue objecting to the proposals for closing the Moorgate level crossing at the Inquiry.
- 7.6 There are two TWAO tests to justify closure of a level crossing and whilst NR will demonstrate the 'necessity' of the closure of the level crossing, NR has not demonstrated that the alternative is a 'convenient and suitable replacement for existing users' as required in the TWAO Procedures.
- 7.7 There is a viable alternative to the TWAO proposal to permanently close path 209 and upgrade path 244, and that is a footbridge.

DIFFERING ESTIMATES FOR THE FOOTBRIDGE

DESCRIPTION	JULY 2024	DEC 2025	FEB 2026
Supply and install bridge	2,300,000	991,000	677,900
Groundworks, specialist plant		251,000	827,800
Closure of level crossing		584,000	296,600
Site set up & security		895,000	
Design		517,000	324,400
Project Management		194,000	207,200
Access & land	1,200,000	435,000	463,200
Unspecified	1,000,000		
Sub-total	4,500,000	3,867,000	2,797,100
Risk		619,000 (16%)	992,900 (L) (35.5%) 1,762,100 (H) (63%)
Total	4,500,000	4,486,000	3,790,000 (L) 4,559,200 (H)

Taking the lower costs from December 2025 and February 2026 the sub-total would be £2,178,900. This would be the basic cost of a footbridge and off this would be the saving of not having to do work on 244 - £176,000, i.e. a nett cost of £2,002,900. **In round figures £2 million.** The risk element, if needed, would be covered separately by NR.

DIFFERING ESTIMATES FOR PATH 244

DESCRIPTION	DECEMBER 2025	FEBRUARY 2026
Clean & spot repair	10,000	10,000
New steps & footpath	63,000	114,000
Site clearance	5,000	5,000
Design	9,000	16,000
Project management	6,000	11,000
Land & compound	20,000	20,000
Sub-total	113,000	176,000
Risk (L)	32,000 (28%)	63,000 (36%)
Risk (H)	57,000 (50%)	112,000 (64%)
Total	145,000 (L) 170,000 (H)	239,000 (L) 288,000 (H)

Costs for 244 have been increased to reflect a wider and better standard of path and stairs from Ladcastle Road to the bridge, but no allowance has been included for permanent acquisition of land for the wider path and I suggest there is inadequate provision for the temporary use of the compound area and to physically create and then restore, an access route to carry out the work.

APPENDIX 1

OFFICIAL



Name : Kevin Lawton

By email: [REDACTED]

Network Rail
Freedom of Information
The Quadrant
Elder Gate
Milton Keynes
MK9 1EN

31 March 2026

Dear Kevin

Reference number: FOI2026/00430

Thank you for your email of 5 March 2026 in which you requested the following information:

Could I please request a copy of the updated DIA for the Moorgate level crossing as referred to in section [8.2.2.29](#) on page 201 of the NR Statement of Case

I have processed your request under the terms of the Freedom of Information Act 2000 (FOIA) but we don't hold the information you're looking for.

Although, as referenced in the Network Rail Statement of Case, assessment work is underway to update the Diversity Impact Assessment, work on an updated Diversity Impact Assessment Report based on this assessment works is still ongoing. As a result, there is no updated version of the Diversity Impact Assessment Report held by us at the time your request was received.

OFFICIAL

The review and sign-off process for the updated Diversity Impact Assessment Report is currently expected to conclude by mid-May 2026. It is Network Rail's intention that the updated Diversity Impact Assessment Report will then be published alongside the Proofs of Evidence which Network Rail are now required by the Transport and Works (Inquiries Procedure) Rules 2004 to serve in support of Network Rail's application for the Transport and Works Act Order which relates to the Moorgate Halt level crossing.

If you have any enquiries about this response, please contact me in the first instance at FOI@networkrail.co.uk. Details of your appeal rights are below.

Please remember to quote the reference number at the top of this letter in all future communications.

Yours sincerely

Joanne West
Information Rights Specialist

You are encouraged to use and re-use the information made available in this response freely and flexibly, with only a few conditions. These are set out in the [Open Government Licence](#) for public sector information. For further information please visit our [website](#).

Appeal rights

If you are unhappy with the way your request has been handled and wish to make a complaint or request a review of our decision, please write to the Compliance and Appeals team at Network Rail, Freedom of Information, The Quadrant, Elder Gate, Milton Keynes, MK9 1EN, or by email at complianceandappealsfoi@networkrail.co.uk. Your request must be submitted within 40 working days of receipt of this letter.

APPENDIX 2

