

## **APPENDIX 4**

### **Consultation email to stakeholders and interested individuals**

Email of 31 October 2014:

Dear All,

**Proposed Extinguishment of part of Buriton Footpath No.3 (level crossing)**

Hampshire County Council is has received an application from Network Rail to extinguish part of Buriton Footpath No.3 under section 118A of the Highways Act 1980. A large scale plan showing the route of the affected path is attached.

**Definitive Alignment**

The section of Buriton Footpath No.3 affected by this proposal commences at Point A (Grid Reference SU 7364 1990) at a junction with Buriton Bridleway No.4 and proceeds in a generally north-easterly direction to Point B (SU 7370 1996) in the Recreation Ground. The length A-B is approximately 85 metres.

The proposal leaves the remaining section of Buriton Footpath No.3 unaltered in the Recreation Ground, terminating short of the railway, after approximately 235 metres.

Network Rail's extinguishment application proposes to extinguish that part of Buriton Footpath No.3 which falls within their ownership only. If this extinguishment is confirmed, Hampshire County Council would like to prevent footpaths terminating at the railway boundary fence and therefore propose the extinguishment to be as shown on the attached plan.

Network Rail suggests an alternative route via the underpass on South Lane. From the entrance of the Recreation Ground on Buriton High Street, it is approximately 430 metres to the underpass on South Lane, whereas it is approximately 270 metres to Buriton footpath level crossing (a difference of 160 metres).

**Background**

Buriton Footpath No.3 is well established (featuring on Ordnance Survey maps dating back to 1871) and well used (Network Rail's census from October 2013 shows the crossing is used by 6 – 40 pedestrians per day. This number is thought to increase significantly in spring and summer).

Network Rail assesses Buriton footpath level crossing to be high risk due to the following reasons:

**Table 1 - Source: Network Rail's extinguishment application**

Barely compliant sighting of approaching trains due to the tunnel entrance
Insufficient sighting due to track curvature

Fast and frequent trains
Deliberate and accidental misuse
Sun glare / fog

Network Rail cites a number of reported incidents of misuse at Buriton footpath level crossing (dates unknown), including:

**Table 2 - Source: Network Rail's extinguishment application**

A near miss with 3 children playing 'chicken' on the crossing
A child lying on the crossing causing the driver of a train to emergency brake and come to a standstill. The driver was incredibly shaken and unable to continue.
Numerous instances of adults and children trespassing (where people use the crossing to access the track), including the British Transport Police making arrests and individuals entering the tunnel.
Children throwing stones at trains

Network Rail has investigated, and discounted, the following options for improving safety at this level crossing:

**Table 3 - Source: Network Rail's extinguishment application**

Options considered by Network Rail	View taken by Network Rail
<p><b>Ramped or Stepped Footbridge</b></p> <p>Cost: £1,500,000 - £2,500,000 (Ramped Footbridge)</p> <p>Cost: £450,000 - £800,000 (Stepped Footbridge)</p>	<ul style="list-style-type: none"> <li>• 'Due to the available space and land boundaries a ramped footbridge is not considered possible... A ramped structure would not be in-keeping with the area.'</li> <li>• 'Due to the topography of the land and land boundaries it is not considered that a stepped footbridge could be provided at the site of the level crossing... the structure would be excessively large due to the steep embankments.'</li> <li>• '...the construction of a ramped footbridge or a stepped footbridge at Buriton given the vicinity of the nearby underbridge on South Lane could not be justified <i>[financially]</i> as well as being unfeasible.'</li> </ul>
<p><b>Subway</b></p> <p>Cost: £1,500,000 - £4,000,000</p>	<ul style="list-style-type: none"> <li>• 'Due to the lay of the land, possibility of anti-social behaviour, light pollution from illumination and flooding risks a subway cannot be provided.'</li> </ul>
<p><b>Miniature Stop Lights [for pedestrians]</b></p>	<ul style="list-style-type: none"> <li>• '...may be feasible but they do not fully control the risk.'</li> </ul>

Cost: £400,000 - £700,000	There is a reliance on users obeying the lights and signage and experience at other crossings indicate that we cannot be confident users will obey these safety indications.'
<b>Reducing the line speed by a permanent speed restriction</b> Cost: £0	<ul style="list-style-type: none"> <li>'The expectation of Government funding in Network Rail is that line speeds should increase, to reduce passenger journey times. They should not be permanently reduced on main line routes.'</li> </ul>
<b>Footpath diverted along railway embankment to underpass on South Lane</b>  Cost: £250,000 +	<ul style="list-style-type: none"> <li>'Unfortunately this is not possible due to advice from rail engineers about potential interference to the embankment. This is particularly relevant given the history of embankment slides in the Petersfield area. Embankment slides cost millions of pounds and cause severe disruption to train services as well as being incredibly dangerous.'</li> </ul>
<b>Footpath diverted along Kiln Lane</b> Not costed	<ul style="list-style-type: none"> <li>'It was thought by all parties that the route would be too dangerous for pedestrians given the traffic and the absence of a pavement through the narrow bridge.'</li> </ul>

I would welcome your views on this proposal. If you have any comments to make and wish them to be taken into account by the Council, I would be grateful if written submissions could be sent to me at the below address (or email address) within four weeks of the date of this email. Should you wish to discuss any of the above, please do not hesitate to contact me.

Many thanks,

**Esther Smeardon**  
**Countryside Access Development Officer**

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## **APPENDIX 5**

### **Consultation responses - stakeholders**

5.1. Local Member – Councillor Moon

Phone call during December 2014:

*“Extinguishing the footpath should be avoided and safety could be improved with mini warning lights or movement sensors.”*

5.2. East Hampshire District Council

Email of 1 December 2014:

*“Based on the incidences that have occurred on this section of track I can understand Network Rail’s position.*

*I think locally this is quite a popular crossing point for those accessing the Country Park and further afield. However there is the route along South Lane that is not too much of a detour, it will just mean that people will not be able to access a longer-distance route through the recreation ground. The benefit of the route along South Lane is that it is part of the Shipwrights Way route which has recently been upgraded and fully signed. Based on the current Health and Safety issues in principle I support the proposed extinguishment of footpath 3, it would also be useful to consult the Parish Council on this if that has not already been done to get a very local viewpoint.”*

5.3. Buriton Parish Council

Letter of 25 November 2014:

***“Views about Network Rail’s application to extinguish part of Buriton Footpath No. 3***

*The Parish Council considered this matter at its meeting last night and resolved to ask Hampshire County Council not to approve Network Rail’s application to extinguish this Right of Way.*

*The Councillors were all very grateful to you for all your hard work on this matter and for ensuring that residents and other organisations have had the chance to comment.*

*The reasons for the Parish Council’s recommendation that HCC should reject Network Rail’s application can be summarised under two headings:*

- *insufficient evidence to justify extinguishment*
- *insufficient consideration of alternative options*

*We provide more details of these reasons to reject the application later in this letter.*

*In the circumstances, Buriton Parish Council feels that the County Council’s Regulatory Committee should reject Network Rail’s application and either:*

- *ask for more details about Network Rail’s evidence or*
- *ask Network Rail to work with the Parish Council, HCC and other stakeholders to produce a package of measures that would improve safety at this site whilst enabling the Right of Way to remain open.*

*As you are already aware, Buriton Parish Council has been disappointed for some considerable time about how Network Rail has handled this matter: failing to involve or consult the Parish Council in any meaningful way over a number of years and failing, despite repeated requests, to provide any evidence about problems at the crossing or any costed information about alternatives to extinguishment. In these circumstances the Parish Council has never been able to form a fully informed view on the matter.*

*As you are also aware, the Parish Council feels that it is a bit of a ‘pawn’ in the path of a national organisation which seems (from what they have told us directly) determined to close*

*every Right of Way across their land, anywhere in the country. As the local newspaper put it: the Parish Council feels that it is being rail-roaded!*

*The Council knows, from the community's Parish Plan, that many parishioners value this particular footpath – providing, amongst other things, short circular walks into the nearby woodland.*

*The Parish Plan survey had a very high response rate (over half the households in the parish) and it will be interesting to compare this with the results of HCC's current consultation. Results from the Parish Plan survey were as follows:*

*1) Do you use the public footpath that goes over the railway line from the Recreation Ground to the woods? Answers: Yes: 62%; No: 38%*

*2) Would you like to see the crossing over the railway line closed? Answers: Yes: 24%; No: 55%; No opinion: 21%*

*Notwithstanding the results from the Parish Plan survey, the Parish Council takes safety very seriously and added extra security gates on both sides of the crossing a number of years ago.*

*In the last couple of months the Parish Council has sought advice from Damian Hinds MP who has drawn attention to a report produced by the Office of Rail Regulation. This appears to suggest that (1) alternatives to level crossings should be sought and where this is not possible the risk should be managed. Closure is not a recommendation; (2) decisions about crossings should not be taken by railway organisations alone (e.g. Network Rail in this case); and (3) if funding is an issue, have opportunities for shared funding been explored?*

*In the circumstances, and in the absence of any of the details requested by the Parish Council, we feel that Network Rail has yet to make an adequate case to extinguish this Right of Way.*

***Insufficient evidence to justify extinguishment:***

- Network Rail's computer model which provides the risk ranking is far from comprehensive: it seems that it can take no account of safety measures introduced on land not owned by Network Rail (in this case, the extra pair of safety gates introduced on each side of the crossing point: these apparently count for nothing in Network Rail's assessment)*
- Also, the computer model is based on 'track speed' when the actual speed of trains can be much slower (this is certainly true in Buriton where there is a lower speed limit within yards of the crossing point and so no trains ever cross the crossing at or near 'track speed'). If actual speeds were to be included in the model the risks would be better represented*
- Network Rail has cited a small number of alleged incidents (seemingly three one-off incidents and "numerous instances" of trespassing). These appear to stretch back over a number of years. Members of the Parish Council are not aware of all these incidents and no dates or details have been provided which would enable the Council to confirm their accuracy*
- A number of these alleged incidents probably took place before the extra safety gates etc. were introduced by the Parish Council*
- And some of the incidents appear to involve individuals gaining access to the track at places away from the crossing, sometimes at considerable distances, and then walking along the track before being discovered near Buriton. These are of no relevance to the proposed extinguishment of this Right of Way*
- More details of this sort of evidence should be provided before permission to extinguish a Right of Way is granted.*

**Consideration of alternative options to avoid closure / extinguishment of the RoW:**

- *In its application to the County Council, Network Rail rules out a small number of alternative options – but without providing any detailed reasoning. Some parishioners suspect that costs are an important ‘behind the scenes’ factor.*
- *It may yet be possible for a range of alternative measures to be introduced for the Buriton crossing so that the Right of Way could remain open:*
  - *improved safety gates*
  - *warning lights for pedestrians when trains are approaching*
  - *improved signage for walkers*
  - *improved sight lines for trains and pedestrians (cut back some vegetation)*
  - *extend the speed limit for the Buriton tunnel by a few yards to take in the crossing point (this would probably not affect journey times at all).*

*Network Rail has admitted to the Parish Council that some (if not all) of these measures could be introduced / undertaken at Buriton – and every one of them would reduce the risk at the crossing point whilst allowing the Right of Way to remain open.*

*The Parish Council feels that this should be Network Rail’s aim – to reduce the risks – and the Parish Council would be happy to work with them, and with representatives of the County Council, the National Park Authority, Local Access Forum, Ramblers and Walking Groups, to devise a suitable package of measures.*

*The new pedestrian warning lights currently being trialled (in similar circumstances) on the Arun Valley Line in Sussex would appear to have great potential for this crossing point – enabling the Right of Way to remain open and, if desired, for the whistle boards to be removed (thus ending the need for trains to sound their horns on approaching the crossing).*

*We trust that you will be able to recommend this course of action to the Regulatory Committee so that the current application from Network Rail can be rejected.*

*Finally we would stress that the route of the Hangers Way from Buriton Pond should not be viewed as an “alternative” path for the part of Footpath 3 that is being proposed to be extinguished. For many people the two paths form, together, a short, attractive circular walk: from the village pond, into the woodland and back over the railway line to the open space, village hall and children’s playground. This is popular with visitors and young families alike and can, for many, give them a flavour of the countryside and encourage them to walk again in the future – something that the County Council must surely support. The loss of one ‘leg’ of this circular walk could have much wider adverse effects.”*

Letter of 26 November 2014:

**“Your extra questions about Buriton Footpath No. 3**

*In addition to the Parish Council’s response to your consultation exercise (which I sent to you earlier this week) the Council also considered, at its meeting on Monday evening, the other matters that you had raised with us:*

- *the extinguishment of longer lengths of Footpath 3 (so as to avoid terminating at the railway fence) and*
- *the Open Spaces Society’s idea of a “diversion”.*

*The Council’s response to these queries in this letter is provided on a non-prejudicial basis because, as you know, a scenario which includes the extinguishment of any part of Footpath 3 is not yet acceptable to the Parish Council unless / until other issues (summarised in my other letter) have been fully considered.*

With regard to the extinguishment of longer lengths of Footpath 3 (so as to avoid terminating at the railway fence) the Council felt that this may not be desirable on the northern side of the railway line.

The reasoning behind this decision was to keep options open for the future: it was suggested that a future owner of the Old Rectory may take a different view from the current owners and may allow a path (maybe a permissive one?) across their land. But, it would probably be on their boundary next to the railway as was previously being considered. Such a scenario would need all of the present Right of Way up to the railway.

The Council also discussed the idea from the Open Spaces Society which would connect Footpath 3 to Footpath 10 via the Recreation Ground and a walk up Kiln Lane (underneath the railway bridge etc).

The Council did not feel that this idea was relevant to the current application to extinguish part of Footpath 3 as it cannot be described as a diversion of Footpath 3 because it goes to a completely different destination.

Parish Councillors also had worries about routing any public Right of Way up that part of Kiln Lane being suggested due to the steep gradient which sees vehicles and cyclists travelling at speed down the hill, around blind corners etc. Councillors felt that they would not wish to encourage walkers to use this route as it is probably more dangerous than crossing the railway line."

#### 5.4. South Downs National Park Authority

Letter of 28 November 2014:

*"The South Downs National Park Authority (SDNPA) objects to the proposed extinguishment of Buriton Footpath Number 3.*

*SDNPA understand Network Rail's concerns over safety on the line but it appears from the case presented by Network Rail that most of the safety issues relate to misuse or illegal use. The footpath provides a valuable link for legitimate users and SDNPA are not aware of any incidents relating to legitimate use. Illegal or irresponsible use should be tackled by enforcement and education. In any case, shutting the footpath may not prevent illegal or irresponsible use as trespass may well occur whether the footpath crossing is there or not.*

*The residents of Buriton are able to use the footpath to access Buriton Chalk Pits Nature Reserve and it links to Forestry Commission Access Land, the South Downs National Trail and Queen Elisabeth Country Park. There is good evidence that the path is well used and of high value to the residents of Buriton to gain access to and enjoy important areas in the National Park.*

*Under Section 62 of the Environment Act (1995), Network Rail has a Duty of Regard to National Park Purposes and must demonstrate this regard when justifying the closure of this footpath. These Purposes are as specified in the Environment Act of 1995:*

- 1. To conserve and enhance the natural beauty, wildlife and cultural heritage of the area.*
- 2. To promote opportunities for the understanding and enjoyment of the special qualities of the Park by the public.*

*Working in partnership with other Local Authorities and other organisations, it is also the duty of the Authority to seek to foster the economic and social well-being of the local communities within the National Park.*

*Closing a valuable footpath such as Buriton Number 3 clearly does not accord with the section 62 Duty placed on Network Rail and the SDNPA looks to Network Rail to provide an acceptable solution that balances its duties and maintains the links for the local community and visitors"*

## 5.5. Natural England

1<sup>st</sup> Email of 20 November 2014:

*"I note the current path leaves the recreation ground and leads across the railway line and into adjacent woodland of Appleton's Copse. Buriton Chalk Pit LNR is located here and is a local wildlife amenity, which residents of Buriton and surrounding communities ought to have continued access to. Given the public safety issues of the railway crossing, we appreciate the proposal to close the path.*

*It is noted that there is a nearby alternative crossing utilising the underpass at the end of South Lane. Given the relative closeness – less than a 100m away, it does appear a suitable alternative to constructing a bridge or another under-path on the line of the footpath which is considered prohibitively expensive.*

*Natural England therefore does not object to the proposal."*

Clarification Email from Hampshire County Council of 20 November 2014:

*"I just wanted to confirm that less than 100m is correct 'as the crow flies', however this direct route is not publically accessible as it is over private land. The difference in distance between the two routes is approx. 160m for a pedestrian to go from the entrance of the Recreation Ground on Buriton High Street to the underpass on South Lane (approx. 430m), or to the crossing (approx. 270m)."*

2<sup>nd</sup> Email of 20 November 2014:

*"I had rather taken the view that the starting point would be the village (and had not assumed you could cut across the field) and anyone would have to choose in advance whether they were going to the recreation ground alone or wanting to go over the railway line to the woods on the other side. If the latter was the case and they lived in the west of the village they would have to walk c. 100m along the village roads first, before turning down South Lane.*

*On this basis my view doesn't change."*

## 5.6. Hampshire County Council – Area Countryside Access Manager

Email of 15 January 2015:

*"I have looked at the application for extinguishment of part of Buriton FP 3 and have the following comments:*

- We have no recorded issues relating to the railway crossing (or this route) on CAMS (Countryside Access Management System) – this information dates back to 2011. The public have therefore never brought to our attention an issue with the safety of this level crossing.*
- By extinguishing part of the FP this means that this part will become a dead-end which is not an ideal situation. However as the footpath also serves as access to the recreation ground it will still retain a purpose.*
- The alternative route that walkers would have to use would be along South Lane which is a no-through road without a footway, and along the High Street (which does have a footway but is very busy with parked cars).*
- I am aware that diversions have been considered and therefore feel that the option of diverting walkers along the base of the embankment (on network rail land) from the footpath to South Lane is a potential alternative."*

5.7. Hampshire County Council – Environment

Email of 5 November 2014:

*“Thank you for your consultation. I would not raise any archaeological issues.”*

5.8. Hampshire County Council – Crime and Disorder Risk Advisor

Email of 4 November 2014:

*“For me the key consideration is Safety of the path users and this would be significantly improved with the proposal made by Network Rail. In addition from a crime and anti social behaviour perspective and changes that keep users away from the railway line reduce their access to get close to it. This reduces the opportunity to throw stones at trains and play chicken etc. The extension to divert to the underpass assists in this because users are now below the track making it far more difficult to throw stones.*

*Crime levels are VERY low for the area with only 1 ASB incident reported in the last 6 months. That was no where near the footpath.*

*I understand this is an established footpath and where possible every effort should be made to keep it. On this occasion I feel the Network Rail option provides the safest and reduced crime opportunity of the two options.”*

5.9. South Downs Local Access Forum

Letter of 4 December 2014:

*“This letter constitutes advice from the South Downs Local Access Forum. Hampshire County Council is required, in accordance with section 94(5) of the Countryside and Rights of Way Act 2000 to have regard to relevant advice from this forum in carrying out its functions. The South Downs Local Access Forum (SDLAF) is the statutory forum for the South Downs National Park under the Countryside and Rights of Way Act 2000. SDLAF is an independent body which aims to give balanced advice about countryside access based on the wide range of views of its members who represent farmers, landowners, user groups, conservationists and those with disabilities.*

*The SDLAF's comments on this application are presented below. There have been several detailed comments on this proposal from LAF members, mainly critical of the application, but at this stage we will just state the main issues.*

- *it is considered that the evidence submitted by Network Rail (NR) constitutes inadequate information in justification for extinguishment of this crossing. There are many rural footpath rail crossings within the SDNP and a high level of justification for closure should be expected in order to meet the objectives and policies of the National Park Partnership Management Plan*
- *risk should be defined by type, location and use of crossing point, and the risk assessment should be available (see addendum)*
- *evidence should be required of the quoted incidents*
- *some of the reasons given are generic and would apply to every crossing point, and even non-crossing points*
- *the alternatives to closure, being the remedial actions, appear not to have been costed in any serious way. In the absence of details they can only be taken as inflated guesses*
- *the phrase “barely compliant” appears to mean it is compliant*
- *there is no information on what the train speeds are, and what they would have to be in order to reduce risk at this crossing*

- the length of the quoted diversion is misleading

*It is understood from local residents that the land for the ideal diversion may not be available, but has it been investigated further? SDLAF advises that alternatives for a diversion are more fully investigated before making a decision whether to make an extinguishment order.*

*Reading the legislation, and bearing in mind the heavily used nature of this footpath, under section 118A, paragraph 4;*

*“(4)The Secretary of State shall not confirm a rail crossing extinguishment order, and a council shall not confirm such an order as an unopposed order, unless he or, as the case may be, they are satisfied that it is expedient to do so having regard to all the circumstances, and in particular to—*

- (a) whether it is reasonably practicable to make the crossing safe for use by the public, and*
- (b) what arrangements have been made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained.”*

*SDLAF note that the HCC interpretation the legal test put forward in the consultation relies on a definition of “expedient” as meaning “convenient and practical”. SDLAF has concerns that this interpretation departs from that made by Mr Justice Grigson considering the term in Ashbrook Vs East Sussex County Council 2002.*

*There are obvious practical ways in which this crossing may be made safe or safer, in the absence of an alternative route. It does not state that cost is an overriding factor.*

***SDLAF advise that there is too little information provided to warrant extinguishment as compared with the amount of use which this path has. SDLAF will respond to any further more specific information when it becomes available.***

***Addendum: Advice from Office of Rail Regulation***

*All level crossings present 'potential risk' to the people that use them. Network Rail must control risk so far as is reasonably practicable at level crossings on the mainline railway, by providing the correct level and type of protection. Users of crossings should use them as designed and intended. The risk at any individual crossing is calculated considering a number of variables including the speed of the trains and the numbers of vehicles and people using the crossing. These variables determine the type and level of protection. The relative risk is not dependent on an urban, non-urban location.”*

**5.10. South Downs Society**

Letter of 18 November 2014:

*“The South Downs Society, although wishing to ensure that all footpaths are safe to use, are concerned that this well used footpath should be extinguished without Network Rail providing more detailed information about the safety aspects of the crossing. In Table 2 for example, without dates, numbers and other details this “evidence” is largely anecdotal. None of these alleged incidents seem to have resulted in an accident, suggesting that, while the crossing is not ideal, it is sufficiently safe.*

*The Society notes that opinions within the village community as ascertained by the Parish Council seem inconclusive although the local Walk for Health group regularly use the crossing without any problems and are strongly opposed to the closure.*

*The proposed NR alternative crossing point, using the High Street, South Lane and Bridleway 4 through an underpass, involves a detour of approximately 750 metres from the crossing. Currently this route itself forms a short circular walk with FP3, which would sadly be lost if the extinguishment should take place.*

*We note that there is no information concerning the arrangements that will be made for ensuring that, if the order is confirmed, any appropriate barriers and signs are erected and maintained*

*We hope that these points will be of help in the consideration of this application."*

#### 5.11. The Ramblers – Hampshire Area

Email of 24 November 2014:

*"NO OBJECTION is raised against the proposal to extinguish the level-crossing part of Burton Footpath 3.*

*Additional lengths, either side of the level-crossing at the South-east end of the Footpath, have been proposed by HCC, presumably to ensure removal of this additional part of the legal public Footpath.*

***Section 118a (1)** states that --'this section applies where it appears to a council expedient in the interests of the safety of members of the public using or likely to use it that a footpath----- in their area which crosses a railway, other than by tunnel or bridge, should be stopped up. It is noted that this Section specifically covers only safety aspects; Network Rail have based their proposal solely on these safety aspects.*

*The use of Buriton 3 to start the ascent, past the historical Chalk Workings and on towards the South Downs Way is readily accommodated by an equivalent, much used and preferred alternative, South Lane followed by Buriton Bridleway 4."*

#### 5.12. The Ramblers – local affiliated group: 'Petersfield Ramblers Club'

Email of 19 January 2015:

*"Ramblers Ass. is always against a footpath closure unless an alternative is provided. In this case no such alternative is offered. Network Rail have built footbridges recently in Hampshire and if they wish to close this crossing should offer one here. I was surprised at the incidents quoted in ref. to the closure. At a meeting I attended in the autumn when the dangers and incidents were discussed with a rep of Network Rail, none of these were mentioned. Were these incidents at this crossing or general; ones on this line? Please let me know the result of this application."*

#### 5.13. The Open Spaces Society

Email of 1 November 2014:

*"If it really is considered impractical to divert the existing path as originally suggested alongside the railway, to link with South Lane then we request that it be diverted in the opposite direction northwards, alongside the edge of the recreation ground to link with Buriton FP 10 via Kiln Lane.*

*I do not know who 'all the parties' were who in your table rejected use of Kiln Lane but as any walker who wishes to access FP10 must walk under the rail bridge and along this road, the sooner we are able to get off the road the more enjoyable it would be. The sight lines (see attached) along this lane here are excellent - but I believe the road may be a little lower than the recreation ground; if that is the case then I have already had plans successfully carried out elsewhere in Hampshire to overcome this - and can supply details and illustrations.*

*The Highways Act 1980 only allows a local authority to make an order to extinguish a footpath, bridleway or restricted byway when the authority considers that the path is not needed for public use. These are the only grounds on which an extinguishment order may be made. Bearing in mind the recorded frequency of use, this path could not said to be 'not needed for public use'. We do not therefore consider extinguishment on these grounds could be justified.*

*In view of this we look forward to our proposal being taken forward so that something good can come from the closure of this pedestrian crossing of the line and the public are better able to link-up the rights of way network around the village of Buriton in the future."*

Email of 2 November 2014:

*"I fear my info regarding extinguishment of railway crossings is a few years out of date.*

*However as the proposal stands the spur of public footpath alongside the recreation ground that would remain is completely pointless and means nothing, as far as I can see.*

*Unlike the local villagers, walkers from outside the area walkers using the OS Explorer map will not know that that the 'field' shown on the map is actually a recreation ground with public access. (We would like them all to be coloured access-land yellow, with country parks also etc). Neither will they know if they enter if they walk across it and can actually get out on to the road (Mill Lane) in their attempt to reach FP10 for example.*

*With the definitive line shown on their map they can link up the paths in the sure and certain knowledge that there is link here. If there is nothing taking place on the field , no doubt many may take the desire-line when they discover that it is a recreation ground, but no matter."*

Email of 10 December 2014:

*"In most cases the closure of a level crossing causes walkers considerable inconvenience, damages the integrity of the path network - and the result is less enjoyable. In this case the alternative is actually more convenient and enjoyable and I note that in the walks leaflet published by the Parish they appear to understand this too, in choosing to incorporate South Lane for both of their published circular walks in that area. The Parish Council understandably wanted to highlight the best local features and promote a route suitable for possibly less able visitors and walkers. However having a nice alternative path cannot be a reason to close this crossing because folk do use it and to extinguish, would limit the possibilities for walkers.*

*The volume of train horns is simply not an acceptable reason for closing a crossing. Under both s.118A and s.119A, the Secretary of State or order making authority shall not confirm an order ... unless they are satisfied that it is expedient to do so having regard to all the circumstances, in particular "whether it is reasonably practicable to make the crossing safe for use by the public".*

*I think the speed of the trains at this point are limited and always will be, due to the curve and tunnel. The visibility of approaching trains from both directions and on both sides of the track are similar and reasonable. However I am concerned by the proximity of pedestrians to passing trains when waiting to cross, especially on the eastern side and also the existence of the recreation ground on this side of the track. It would be interesting to ask some dog walkers if, and how practical, crossing with their dog really is - next time you're in the park. A dog would have to be under serious control with the owner, of necessity, standing on that top step and not alarmed at the speed and proximity of the passing carriages.*

*I think these two aspects do made the circumstances relating to this case exceptional and if challenged by an order to extinguish this path I would have to admit to them. I would also have to accept that the existing alternative route via South Lane would be any visitors first choice and that the flight of steps in particular appear to seriously compromised any opportunity for increasing convenience and safety.*

*In the circumstances, as I've intimated, it might be that we should take the opportunity to try to negotiate some wider improvements to the nearby network. Although as I understand it, it is always open for the PC to dedicate a definitive a path-link parallel to the railway, across their recreational land, towards Kiln Lane and FP 10."*

#### 5.14. Buriton Primary School

Email of 22 January 2015:

*"As Mr Bainbridge [previous Headteacher] left the school in December 2005 we feel it is not relevant for his letter to be included.*

*However, as a headteacher, the main priority is the safety and welfare of all pupils who attend the school. As the railway and crossing is within close proximity to the school, it therefore presents a risk to the children and we would fully support the closure."*

Letter of 15 July 2005, included with Network Rail's application:

*"While understanding and appreciating the views of all parties, from a Headteacher perspective with the safety and well-being of all children who attend our school, I do have grave concerns about children accessing this crossing. Parents I've broached with the subject, particularly parents with children who live in the village have used the phrase "an accident waiting to happen".*

*I do intend to talk with children and parents in September to formally seek their views but parents and staff have suggested closing the crossing as soon as possible whilst a solution is reached.*

*My own personal belief is that a meeting involving the whole of the Buriton Community particularly the parents of children at the school be organised to open up a public debate. I am happy to help in any way I can particularly in collating views of the children and parents.*

*Finally, from a Headteacher perspective, the impact of a fatality of a child on the crossing would be devastating for the whole community and I've no doubt it would lead to an immediate closure. I am happy to support in any way and appreciate the opinions of the school being valued."*

#### 5.15. Buriton Walking for Health

Letter of 7 November 2014:

*"This letter represents the views of the majority of the walkers and walk leaders who participate in the Buriton Walking for Health Group, of which I am the leader. The Crossing in question is used regularly by the Group of up to 30 walkers and frequently by individual members of the Group.*

##### 1. Points raised by British Rail

*a. Poor sighting of approaching trains due to tunnel entrance. We have not found this to be so. Our walks which involve the use of the crossing frequently encounter trains from both directions. At no time have we found this to be dangerous in any way. Trains exiting the tunnel can be clearly seen and heard and are not a problem.*

*b. Insufficient sighting due to track curvature. The same principle applies to south-bound trains. Approaching trains can be clearly seen and heard even in adverse weather conditions.*

*c. Sun glare/Fog. The Walking Group has been in existence for nearly five years and has used the crossing in all types of weather conditions. This has included fog and bright sunlight. At no time have we experienced any danger due to adverse weather conditions.*

*d. Deliberate and accidental misuse. British Rail quotes a number of examples of misuse by members of the public. It would be interesting to know the dates of these alleged infringements as most of them appear to be historical and of little current relevance. Approximately six years ago the Parish Council arranged for double security gates to be fitted on both sides of the crossing. These have been very effective in preventing the accidental access to the crossing by small children or others who might be exposed to a dangerous situation. We suspect that the incidents quoted by British Rail occurred well before the double gates were installed.*

*Persons who wish to deliberately access the railway for malicious reasons can easily do so via the Recreation Ground or from the wooded area beside the track and this has little relevance to the crossing.*

*e. A letter from the alleged author of the British Rail application which was published in the Buriton Parish Magazine claims that a horse was led over the crossing in February. The long*

*steep flight of steps leading to the crossing the narrow gate at the base of the steps make this statement extremely difficult to believe.*

## 2. Extinguishing the crossing.

*The alternatives outlined by British Rail are clearly impractical for the reasons given. It is therefore a question of whether the safety situation is so dire that it requires that the crossing in its current status needs to be extinguished.*

*The crossing has almost certainly been in existence for well over 100 years. In years gone by the children of the village used it to access the woodlands which were their main play area. Much of that area has been fenced off and it is now rare to find unaccompanied children using the crossing to access the woodland. The steady development of recreational facilities on the Recreational Ground has also greatly reduced the attraction of the woods as a play area.*

*However, use by families who wish to enjoy walking in the woods (known locally as the "Holla") with their children has increased with the recent development of the Chalk Pit Nature Reserve and trails. Closure of the crossing would inhibit access to this excellent facility. Moreover, should the crossing be closed, families from the larger part of the village would find it more convenient to use Kiln Lane to access the paths along the top of the South Downs. The steep hill and winding nature of this road makes it hazardous for pedestrians in general and even more so for our Walking Group.*

## 3. Conclusion.

*We consider that the reasons put forward by British Rail suggesting that the crossing has become a high risk are not substantiated and that the double gates installed by the Parish Council provide the crossing with adequate safety precautions. Closure would reduce the access to a popular wooded area and the Nature Reserve. It would also result in the elimination of a footpath which has existed for generations.*

*We would respectfully submit, therefore, that the current situation with regard to the crossing does not meet the legal test for extinguishment under Section 118A of the Highways Act."*

## 5.16. Buriton Village Association

Letter of 21 November 2014:

*"The Buriton Village Association is pleased to respond to your consultation and would like to thank you for consulting villagers in this way. It is a shame that views of the community are split on this matter as this can spoil the harmony and good relations in what is normally a very friendly and supportive village.*

*The Committee of the Association spent some considerable time discussing this matter. We were not, initially, united in our thoughts – but we reached an unanimous conclusion which we now submit to you. We hope that our thoughts may help the County Council find a way through this testing matter.*

*At the outset we should say that, having studied the materials which you have circulated, we cannot yet support the argument that the Right of Way should be extinguished – but neither are we saying that it should remain open for all time if it is genuinely unsafe and if its safety cannot be improved in other ways.*

*We would pose two questions for the County Council to consider:*

- 1. Is the County Council satisfied that the 'evidence' about incidents that has been provided by Network Rail is accurate, relevant and up-to-date? A number of members of our Committee have lived in the village for over 40 years (two for around 80 years!) and have very few, if any, recollections of the sorts of things that are being suggested by Network Rail. Has the County Council received full details of each incident, such as dates, by whom reported etc? The Parish Council installed some extra gates (with latches) to improve safety a few years ago: how many of the alleged incidents have taken place since*

*those improvements? Also, is it clear that the footpath crossing point is really the problem place – or is it possible for people to get onto the tracks elsewhere?*

- 2. Is the County Council satisfied that no other measures are possible to improve the safety? There have been suggestions that vegetation could be cut back to improve visibility for walkers and for train drivers. There have been suggestions that special warning lights for pedestrians can be installed at relatively low costs. There have been suggestions that signs could be put up nearby, helping walkers avoid the crossing point if they would prefer. Has Network Rail really explained why none of these things can be done so that risks could be reduced and the footpath stay open?*

*Our suggestion to the County Council is that you should only consider extinguishing this ancient Right of Way if you are very clear that the evidence submitted is accurate, relevant and up-to-date and if you are convinced that no combination of other, affordable improvements can be introduced which would enable the footpath to stay open.”*