

From: F M
To: [REDACTED]
Cc: [REDACTED] Ali;
Subject: Penleigh Park Level Crossing Footpath Westbury 15 (part) - Network Rail's application for a Public Path Order - Ref: P/2025/003
Sent: 07/07/2025 16:23:39

Dear Mike Sutton,

Thank you for your e-mail below sent Sun 29/06/2025 18:49.

As I said in my e-mail to the Definitive Map Officer sent Mon 16/06/2025 14:43, Westbury 15 is part of the ancient route from Westbury to Brook Mill and the medieval settlement of Brook and is marked on the Westbury Inclosure Award Map of 1808.

What remains of it is recorded on the Definitive Map and Statement as WEST8, WEST9, WEST15 and DMAR10.

The Penleigh Park Level Crossing was constructed in 1933 under the powers given to the Great Western Railway Company by the Great Western Railway Act 1930 (see at <https://www.legislation.gov.uk/ukla/Geo5/20-21/68/contents/enacted>), which included the construction of Railway No. 2 (the Westbury Avoiding Line) - see principally Sections 5, 6, 9, 19, 20, 21, 32 and 57.

Under these statutory provisions, all the many then existing public rights of way along the route were stopped up/extinguished except for WEST 15 (the Penleigh Park Level Crossing), and WEST6/HEYW6 (the Church Path), for which an underpass was provided; and in accordance with Sections 20(4)(e) and 21(4) of the Act, the railway path from Penleigh Road, Dilton Marsh (now Fairwood Road) bridging over the new railway and connecting with WEST15, was dedicated as an additional/replacement public right of way (now DMAR17/DMAR46/WEST60).

So, as you see, the Penleigh Park Level Crossing was and is crucial to two of the only three Rights of Way crossings of the new railway that survived that process and remain available for public use today.

The current closure application relies on powers contained in Section 118A of the Highways Act 1980 (see at <https://www.legislation.gov.uk/ukpga/1980/66/section/118A>), which was inserted into that Act by Section 47 and Schedule 2 of the Transport and Works Act 1992, and as far as I am aware, sets out the only specific powers available for stopping up/extinguishing railway level crossings such as Penleigh Park Level Crossing. Network Rail is not exempt from it, and ought to close the Westbury Avoiding Line if it is no longer willing to abide by the terms of the agreements entered into when it was built.

Yours sincerely,

Francis Morland

[REDACTED] Close Chapmanslade BA13 [REDACTED]

From: [REDACTED] >
Sent: 29 June 2025 18:49
To: F M [REDACTED]
Subject: FW: Penleigh Park Level Crossing Footpath Westbury 15 (part) - Network Rail's application for a Public Path Order - Ref: P/2025/003

Dear Francis,

When I joined the railway at Westbury in 1975 this crossing was much used by railwaymen and by some residents. It was also used at weekends by members of the railway social club and there were never any incidents even when some under the influence of alcohol which probably does not apply today. I know from my days on the railway that Network Rail would like to close all such crossings and have shut many over the years. Of course the speed and silent running of the trains are a factor but drivers are obliged to blow the horn at the strategically placed Whistle Boards.

With your knowledge of footpaths is this a registered path subject to all the necessary agreements or one grown up through common usage. The railway of course exempt from much legislation.

Regards

Mike Sutton