

Mr Chris Heaton-Harris MP
Minister of State for Transport
Great Minster House
33 Horseferry Road
London
SW1P 4DR

8th March 2021

Dear Mr Heaton-Harris

Historical Railways Estate

We wrote to you on 17th December 2020, expressing our concerns about Highways England's plans to infill or demolish more than a hundred disused railway structures, many of which are earmarked for reuse as part of new cycle routes, reopened railways or extensions to heritage lines, or have identified potential for similar future schemes.

The response we received to that letter - dated 11th January 2021 and sent by an unnamed DfT official - was disappointing, inaccurate in certain respects and failed to address the substantive issues. On 17th February, the DfT issued us with an internal review of its decision to refuse our Freedom of Information request for correspondence and documentation regarding plans for future management of the Historical Railways Estate. That response raises a number of additional concerns.

We would welcome clear and specific answers to the following ten questions arising from the Department's recent letters and media statements made by Highways England.

Highways England and the DfT both assert that...

"Highways England is planning to infill 115 bridges and remove 15 structures over the next five years."

"Approximately 200 of the public road bridges managed by Highways England have failed their most recent structural assessment (BD21), but have not had any restrictions implemented. Therefore, Highways England's planned infilling is the safest and most appropriate option..."

The DfT's internal review asserts that...

"Decisions have yet to be taken on which particular structures will be subject to development work by Highways England."

What we know...

According to a list provided by Highways England, there are actually 169 bridges that have "failed their most recent structural assessment but had no restrictions imposed". However at least 14 of these (8%) *do* have weight restrictions.

If access under a bridge is needed for a proposed cycle path or railway, infilling cannot be the "most appropriate option". From a cost perspective, infilling is typically 4-6 times more expensive than strengthening work to increase a bridge's capacity. Both options reduce the level of risk associated with a structure.

Even if a bridge has failed its structural assessment, the risks are not meaningful unless the anticipated traffic loading is greater than the bridge's capacity and/or there are signs of distress. Highways England's unwillingness to recognise this demonstrates that it is acting disproportionately, particularly in relation to structures of identified value.

It is reasonable to infer from the HE/DfT statements that the 115 bridges currently earmarked for infilling are from the "approximately 200" that have failed assessments but had no restrictions imposed; however it is now clear that 55 of them (48%) are *not*. At best, the HE/DfT statements were therefore misleading.

Highways England's most recent statement made no reference to failed assessments, instead asserting that "We are acting to keep people safe from actual risks identified by experienced engineers who have had the benefit of inspecting the structures". This, however, provides even less justification for infilling: most of the at-risk structures are in Fair or Good condition, with few defects and exhibiting no signs of distress.

The statement from the DfT's internal review clearly conflicts with the HE/DfT statements.

- 1** **What is the justification for infilling the 55 bridges that are *not* listed as having 'failed their most recent structural assessment but had no restrictions imposed'?**
- 2** **Why did Highways England not consult heritage railways, community/third-sector organisations developing new cycle routes and groups proposing reopenings through the DfT's own *Restoring Your Railway Fund* before determining the "most appropriate option" for the long-term management of these structures?**
- 3** **Why is Network Rail content to accept that local highway authorities are fulfilling their traffic management obligations appropriately in respect of ~1,600 overline bridges within its ownership that have failed assessments for 24-tonne capacity, but Highways England is not?**

The DfT asserts that...

“No decisions have yet been made as to the level of HRE funding within the RDEL settlement, and this is being considered alongside other priorities. Funding for the HRE beyond 2021-22 will need to be considered in SR21.”

What we know...

Highways England has told stakeholders that its works budget for HRE structures has been increased to “£36 million” per year. It is a matter of public record that HE has issued framework contracts to six companies with a total value of £254 million over seven years, equating to £36.3 million annually.

In order to prioritise projects and address emerging risks, it is not possible to effectively manage an estate of 3,200 structures without a reasonable understanding of available medium-term funding.

4 What has the DfT told Highways England about future HRE budgets such that the company felt able to award £254 million worth of contracts for work on the Estate up to 2027?

The DfT asserts that...

“The development powers that will apply to each structure have also yet to be determined, and will not be so determined until Highways England has consulted and received advice from relevant local authorities.”

What we know...

Highways England issued a spreadsheet confirming that it had sent Permitted Development notification letters to local authorities regarding works to 124 structures; it subsequently made 34 of these letters available under Fol. In 30 cases, they specify that “Highways England HRE propose to undertake support works [infilling] as permitted development in line with the ‘Town & Country Planning (General Permitted Development) (England) Order 2015, Schedule 2, Part 19 Class Q’. Specifically, and for the avoidance of any ambiguity, the works are being undertaken in order to prevent an emergency arising.”

A local authority has no powers to prevent Permitted Development.

Most of the 34 PD notification letters were sent on 10th September 2020. To the best of our knowledge - almost six months later - no physical interventions have yet taken place at any of the bridges earmarked for infilling. The 115 schemes are programmed to take place over *five years*.

In response to one letter, a local authority told Highways England’s agent: “I do not consider that the works can be considered to fall within the meaning of emergency... Although the works may be necessary to ensure the stability of the bridge and therefore critical for the

safety of road users, I note that you have been aware of the failings of the structure since 2008. I consider therefore that the works fall more within the category of essential maintenance of the bridge... I would suggest therefore that you make a planning application for the works."

It is clear that Highways England's interpretation of 'emergency' is not one most people would recognise.

In 55 of the 102 cases (54%) reviewed so far, the disused railways spanned by the bridges proposed for infilling are safeguarded from development under policies adopted by the relevant local authority; however Permitted Development circumvents this protection.

- 5** How has the maintenance regime for at least 30 HRE bridges failed to such an extent that action is now required on "urgent safety grounds" to "prevent an emergency arising"?
- 6** Notwithstanding the failed assessments, what evidence does Highways England have to suggest that the live load ratings and condition of these bridges, coupled with their anticipated traffic loadings and absence of weight restrictions, creates any meaningful prospect of an emergency arising?
- 7** As these infilling schemes are clearly part of a routine asset management programme, why does Highways England not simply apply for planning permission for each scheme as it has done previously, thus ensuring appropriate democratic scrutiny?

The DfT asserts that...

"There is a formal process that should be followed in relation to each piece of development work. This involves consultation with the landowner and the local authority. Making information public, especially before the landowner has been consulted, could lead to unnecessary concern and misunderstanding, resulting in additional costs and diversion of officials' time. This would not be in the public interest."

- 8** Why does the first step in that "formal process" involve telling local authorities that "works are being undertaken to prevent an emergency arising", action that neither the landowner nor the local authority has any meaningful ability to influence?
- 9** Why do the DfT and Highways England not recognise that landowners will inevitably be concerned when they are approached by staff from HE's agent seeking access to their property in order to "undertake ecological studies in relation to proposed works", but the agent fails to offer any explanation as to the nature of those works?

Highways England and the DfT both assert that...

"Highways England also contacted all local authorities affected to advise them of its plans, and to see if they have any use for the structures. In addition, it has arranged for seven structures to be transferred to local authorities which aspire to use them for cycle routes."

What we know...

The seven structures to be transferred to local authorities are for two cycle path schemes substantially funded by Highways England; none of them is for a community-led scheme.

The dowries offered with those structures (around £30K each) only account for likely future inspection costs. In a letter dated 31st December 2015, your predecessor, Andrew Jones MP, asserted that dowries would reflect inspection *and maintenance* costs. The average cost of Highways England's last five infilling schemes is £145K. Any bridge earmarked for infilling but instead transferred to a local authority should therefore attract a dowry of around £175K.

Local authorities *do* have "use for" many of the structures, but don't have the funding to do anything beneficial with them: 19 are currently proposed for reuse as part of rail or active travel projects and a further 22 have clear potential for reuse in the future. But these structures cannot realise their potential without a culture change within the DfT and Highways England, and central government funding to deliver the associated infrastructure projects.

10 **Why does the DfT not reframe its Protocol Agreement with Highways England to mandate positive collaboration with all stakeholders (statutory, third-sector, voluntary and enthusiast) to deliver the greatest possible public benefit from these infrastructure assets and the money invested in them?**

The Government has committed to 'building back better' after the pandemic, investing in green infrastructure and levelling up the economies of neglected regions.

If £254 million is really to be invested in the Historical Railways Estate over the next seven years, it cannot be spent on destruction. That's unsustainable, unforgivable and taxpayers would pass a damning judgement on those who sanctioned it. And even if the budget is much more modest, targeted investments and a collaborative approach still have the potential to deliver positive new roles for many of these structures, helping to promote the Government's aspirations for an active travel revolution.

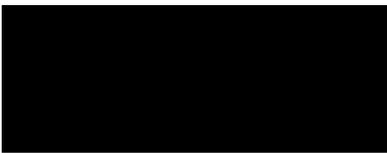
We accept that every HRE structure has to be maintained in a safe condition and a considerable proportion - perhaps one-third - has no realistic value for future transport provision. But a similar proportion does have clear value. Some of the planned demolition and infilling schemes are causing understandable anger and anxiety amongst communities who see a better future being snatched from them. Evidence of this is demonstrated by the response to our online petition which has already been supported by more than 11,300 people. I have attached the first ten thousand signatories for your reference.

One final thought. As a member of the Queensbury Tunnel campaign group, I became aware last year - from sources within and close to Highways England - that members of the company's Historical Railways Estate team have felt pressurised to pursue an obstructive agenda with respect to the tunnel, imposed upon them by one official within the Department for Transport who "has a veto on progress" and wants to see the HRE "sorted once and for all" before they retire.

We would welcome your assurance that a personal crusade on the part of a single civil servant will not prevent Historical Railways Estate structures being repurposed for public good, benefiting hundreds of communities and millions of people up and down the country.

We look forward to receiving your responses to our ten questions.

Yours sincerely



on behalf of The HRE Group

The HRE Group is an alliance of walking, cycling and heritage campaigners, engineers and greenway developers who regard the Historical Railways Estate's 3,000+ structures to be strategically valuable in the context of future rail and active travel provision.

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