

Mr Duncan Smith  
Acting Executive Director for Operations, Highways England

(By email)

2 July 2021

Dear Mr Smith

### **Historical Railways Estate**

Many thanks for your letter of 30 June 2021 regarding the infilling of the HRE bridge at Great Musgrave. We appreciate the manner in which you have directly answered most of our questions, but regret that we cannot accept many of your responses (***bold italics*** below).

***“The estimated cost of pressure pointing the bridge to achieve its full strength is circa £75,000 based on works on similar bridges completed over the last few years. This does not include costs for further ongoing maintenance. Considering whole of life costs, infilling offers better value for money and can be reversed in the future should that be required.”***

In 2012, minor repairs and repointing were carried out on Great Musgrave bridge at a cost of around £10K. On the basis that the mortar loss recorded in 2020 was very localised, we regard £75K to be unsustainably high and believe the work should cost no more than £20K, if appropriately scoped and procured.

Your figure is indicative of the damaging mindset which has characterised Highways England’s approach to this issue. You could have implemented a proportionate and pragmatic solution at Great Musgrave - as Network Rail would have - but instead you are now resolutely seeking an inflated cost justification for doing the wrong thing. That culture needs to change.

HE’s 2016 Draft Strategic Plan (DSP) for the HRE states that £25K is spent on assessment, inspection and maintenance of a typical structure every ten years. In this context, £124K for infilling does *not* represent better value as it will be many decades before the taxpayer sees a financial return and this takes no account of the negative environmental, heritage and wider economic impacts resulting from infilling.

You have a responsibility to look beyond just your balance sheet, although it is now quite clear that the Great Musgrave scheme was actually progressed opportunistically in pursuit of your liability reduction policy, as set out in the DSP.

***“There was a risk that the bridge was being used by vehicles heavier than it’s assessed capacity. Assessments showed an increase in the depth of open joints in the arch barrel, as well as a downward movement of the masonry for the arch.”***

Given the weight restriction on the nearby A685 (which prohibits vehicles of more than 18 tonnes making *through journeys* via Great Musgrave bridge) and the nature of the narrow road crossing the bridge (height restricted by two low railway bridges, sharp bends and three humped crossings of the river), the risk of use by overweight vehicles was slight and your own inspection reports recorded no defects associated with overloading.

The increasing depth of open joints justified your inspector’s recommendation to carry out repointing. Some individual masonry blocks were deflected by 15mm, having moved 11mm over three years. This is very modest deflection. We have appended a photograph from an operational railway bridge carrying 1400x 22.5-tonne axles every day, with two masonry blocks deflected by ~70mm and visible moving. The asset team had no particular concerns given the general condition of the structure.

There would appear to be an inability or unwillingness on HE’s part to communicate the risks associated with these minor defects in a reasonable manner. We note that HE’s engineer had recorded Great Musgrave bridge as presenting “No significant [public safety] risk” and with a low likelihood of any adverse event occurring following the February 2020 inspection.

***“Our priority is to keep structures safe. The cost of reversing the infilling is nominal and we would be happy to work with any rail groups and the local authority to remove the infill at no cost to them, should this be the remaining issue stopping the reopening of the railway.”***

Please define “nominal”. We would expect breaking out the concrete and appropriate removal/disposal of the infill to cost many tens of thousands of pounds and the work will inevitably damage the existing stonework.

Your apparent willingness to remove the infill if it is the last impediment to the railway’s reinstatement would impose another significant financial burden on the taxpayer. How would the two railways invoke and, if necessary, enforce this commitment? Is HE also committing to strengthening the bridge after the infill is removed?

Do you not accept that it would have been preferable - given the specific circumstances with Great Musgrave bridge - to repoint the structure and maintain it as an asset?

***“We proceeded infilling works based on advice given by Eden District Council (EDC) that planning permission was not required. EDC then contacted us and recommended that we stop work so that they could re-check whether the infilling qualified to be undertaken under permitted development. As the work was substantially complete, and in order to leave the site in a safe manner, work was completed.”***

This statement is not true. EDC *first* asked Highways England to pause its works on or prior to 1 June 2021. Only a small amount of aggregate had been placed by this time and, crucially, it was another two weeks before the concrete was pumped. We have appended a photograph taken at midday on 1 June 2021 as evidence. HE could and should have paused its works.

We asked:

“What is Highways England’s intention with regards the removal of the infill when the six-month period allowed under Class Q expires on 24 November 2021?”

You stated that:

***“Should the removal of the infill be required to reopen the railway in the future, we will do this at our cost working collaboratively with local stakeholders.”***

You did not answer our question.

Having refused to pause, HE told EDC that the works would be continued under Permitted Development (Class Q) powers which are intended to facilitate temporary works in situations presenting a serious threat of death or injury. We have appended these powers for reference.

The six-month period within which Highways England is obliged to restore the land “to its condition before the development took place” (unless EDC provides written consent for the infill to be retained) expires by 24 November. This is the date on which we know works were underway, but we recognise the contractor had probably arrived on site several days earlier.

So we ask again: what is your intention with regards to removal of the infill within the six-month period required under Class Q?

***“The land around the bridge was previously sold to Railway Paths Limited (RPL). Following discussion with RPL we believed there was no interest in retaining access beneath the bridge by any stakeholders due to a missing river bridge further along the line. However, on reflection we acknowledge that further engagement with stakeholders including Eden Valley and Stainmore heritage railway companies could have taken place.”***

This statement is not true. The land either side of Great Musgrave bridge is **not** owned by Railway Paths and it therefore had no interest in the bridge; neither is it in a position to represent the views of the two railways.

RPL owns property in Warcop - 1.25 miles away - and much of the trackbed to Appleby, as well as a short section 300m south of Great Musgrave bridge, the transfer of which to the Eden Valley Railway (EVR) - intended for use as part of its extension to Kirkby Stephen - has been blocked by the Department for Transport. These properties are marked blue on the appended map; Great Musgrave bridge is marked red.

The missing river bridge has absolutely no relevance to decisions around your infilling scheme.

You accept there should have been “further engagement” with the Eden Valley and Stainmore railways. However both of these organisations contend that there was **absolutely no engagement** with them, contrary to the statements made by Highways England in the media. Great Musgrave bridge was **not** discussed during HE’s meeting with the Stainmore Railway Company and a Councillor on 18 October 2019, as the appended Minutes demonstrate. These were sent to your engineer and approved as a true record.

Why did Highways England not consult the Eden Valley and Stainmore railways about the proposed infilling of Great Musgrave bridge, the only two organisations with a known and longstanding interest in retaining access beneath it?

For your reference, we have attached our report on the structure’s infilling.

***“From August 21, this web page will also house an archive which will be used to make assessment reports and details about our forward programme publicly available.”***

We welcome the proposed publication of material relating to your infilling and demolition programme, and request that it includes the most recent Visual Inspection, Detailed Examination and Structural Assessment for each affected structure.

But what are stakeholders expected to do in the intervening eight-week period if structures they have an interest in are under threat? As requested, please provide a list of the 69 bridges/tunnels you are currently intending to infill. We see no justification for you to keep it secret.

We note that you offered no response to the following question:

“Could you please explain how the infilling or demolition of 130 HRE structures - most of which are in Fair condition and about one-third of which have identified future potential for sustainable transport use - aligns with the overarching objective of [Historic England’s Protocol for the Care of the Government Historic Estate 2017], to manage historic property “to achieve value for money and conserve heritage assets in a manner appropriate to their significance, so that they can be enjoyed for their contribution to the quality of life for this and future generations”?”

Whilst the HE/DfT Protocol Agreement for management of the HRE makes no reference to the Estate’s heritage value, compliance with the Historic England protocol is still mandatory. We note also that Highways England has failed to comply with the requirements of its own Standard CG 304 *Conservation of Highway Structures*.

Your HRE Director continues to perpetuate the absurd assertion that infilling Great Musgrave bridge has “preserved the structure”, demonstrating just how out-of-touch Highways England is on this issue and disrespecting those involved in real heritage conservation. In reality, ingressing water can no longer escape/evaporate from the structure, whilst any subsequent breaking-out of the concrete will result in stonework damage, Highways England having ignored the EVR’s request to fit two sheets of polythene to the arch to prevent bonding.

Please explain how infilling and demolition meets your obligations under Historic England's *Protocol for the Care of the Government Historic Estate* and Standard CG 304.

In addition to more openness regarding your infilling/demolition programme, we would ask that Highways England makes a commitment to:

- apply for planning permission for **all** proposed infilling/demolition schemes to ensure full and appropriate democratic scrutiny of their broader impacts
- engage more positively and effectively with **all** parties with a vested interest in a structure, not just statutory bodies and HE's partners
- recognise the heritage, landscape, community and future sustainable transport value of each structure, regardless of whether it is Listed.

We have no desire to engage in a protracted battle with Highways England over its infilling and demolition programme, and accept entirely that the Estate has to be maintained in a safe manner. But HE's refusal to recognise its damaging failings with respect to Great Musgrave bridge, the disproportionate nature of its actions and its many deceitful media claims does the company no credit and, as a consequence, it has rightly been the subject of vigorous criticism. The public has a right to expect reputable, collaborative and socially responsible behaviour from a company spending our money.

We encourage you to visit our interactive map showing the 134 structures identified by Highways England as being at-risk of infilling or demolition...

[https://www.google.com/maps/d/u/0/edit?mid=1\\_9GtFIDW-QuYPvp8vBcSUD4gH9cOMdZt](https://www.google.com/maps/d/u/0/edit?mid=1_9GtFIDW-QuYPvp8vBcSUD4gH9cOMdZt)

Please appreciate that around one-third of these structures have identified value from a heritage or future sustainable transport perspective. In our view, your programme should be focussed on the one-third of structures identified as having 'no realistic value', to which we would not object to infilling or demolition if our evaluation is confirmed through due process.

Finally, could we please ask you to intervene in the matter of structure ANB/4 at Kirtlebridge. For the past 60 years, this bridge has been used as an access route by a local farming family and its proposed infilling would deny the landowner access to two acres of his property. Like Great Musgrave, infilling is wholly unjustified based on the structure's current condition.

This matter is causing considerable and understandable distress to the individuals concerned and it would be a welcome and appropriate demonstration of positive intent if Highways England dropped this particular scheme from its programme and instead undertook repairs.

We look forward to hearing from you.

Yours sincerely



on behalf of The HRE Group