

Mr Huw Merriman MP
Chair, Transport Committee
House of Commons
London
SW1A 0AA

20 July 2021

Dear Mr Merriman

Historical Railways Estate

We read with considerable interest the recent response of Baroness Vere to the Committee's letter of 16 June 2021 regarding Highways England's ongoing infilling and demolition programme of Historical Railways Estate structures.

Her statements, reproduced below in ***bold italics***, have been reviewed by two experienced civil engineers, senior officers from the Eden Valley and Stainmore railways, and other members of our group. Generally speaking, we regard them as a comprehensive misrepresentation of the facts.

Contrary to what has been claimed elsewhere, Highways England does allow heritage railway organisations to take responsibility for HRE structures where they are able to do so...

...the Department seeks to transfer to the relevant local authority who can then lease the railway property to them.

So, as we stated, the DfT will **not** allow heritage railways to take ownership of HRE structures; it requires a transfer to another **statutory body**, effectively acting as the railway's landlord. Given the prevailing constraints impacting local authorities, this has a blocking effect and, in the vast majority of cases, condemns HRE structures to permanent and unnecessary decline and redundancy.

The policy contrasts starkly with that of the former British Railways Board (Residuary) which directly transferred structures to heritage rail operations and allowed walking/cycle routes to

pass under/over legacy structures through leasing or licensing arrangements, resulting in the risks and maintenance costs being shared.

In the small number of cases where transfers of HRE structures have recently taken place, these generally involve schemes that were already funded and in development, such as Cornwall's Saints Trail and the Newbury-Didcot railway path - both part-financed from Highways England's designated funds - as well as the privately-financed conversion of Catesby Tunnel for aerodynamic testing purposes.

The DfT's policy is disproportionate, indicative of a stifling culture of risk aversion and is contrary to the wider public interest. It fails to recognise the considerable expertise within the heritage railway sector, accrued over many decades through the successful management of hundreds of legacy structures.

In Cumbria, the Eden Valley and Stainmore railways are already responsible for 14 bridges which undergo regular, appropriate inspection and maintenance by invested trustees and volunteers. The quality of work is compliant with current safety standards. However the DfT recently prevented Railway Paths Ltd (RPL) - an independent charity which manages around 1,200 disused railway structures - transferring two sections of trackbed comprising 15 bridges to the Eden Valley Railway (EVR) which needs them to progress its extension plans. This also denied RPL the opportunity to release value from its assets.

The EVR already has a Transport & Works Act (The Eden Valley Railway Order 2004 (No.1817)) for the Appleby-Warcop section of its scheme (appended for reference).

It should be noted that around 250 HRE structures are currently leased to Railway Paths or Sustrans for use on the National Cycle Network, all of which are managed by RPL. The charity has nine employees, looks after its estate proportionately and pragmatically, and has an undertaking with the Secretary of State not to develop its infrastructure in a way which might prejudice future rail use. According to RPL's 2020 Annual Report, almost 100 of its structures are recorded as being in Poor or Bad condition, but we are not aware of any plans for infilling or demolition schemes; instead, more cost-effective and less destructive solutions are adopted, retaining the potential to reuse the asset.

Baroness Vere asserts that "it is essential that such organisations have a sufficiently good covenant to take on permanent liabilities". RPL's is no better than many heritage railways and the charity has very limited means of generating income (mostly asset sales which the DfT can/does block), yet the Department is intending to transfer three more HRE bridges in East Renfrewshire to RPL this year, with the possibility of others to follow.

Why can the same approach not be extended to heritage rail operations?

The suggestion that Highways England has an aim to demolish 10-15% of the HRE may have arisen from a strategy and options discussion paper that was put forward to DfT during dialogue over management of the Estate. As you know, such papers consider all options, including a do minimum or do-nothing approach.

Highways England's 2016 Draft Strategic Plan (DSP) for the Historical Railways Estate (appended for reference) did **not** set out a range of options: it sought to "establish a dialogue with DfT in order to change the adopted reactive Do-Minimum approach for managing the HRE to one which is more intervention based."

Only **one** option was put forward, as a replacement for the status quo. This was therefore the "preferred option".

It should be noted that members of Highways England's HRE team have told some stakeholders that its annual works budget is increasing to £36M, reflecting our previously asserted £254M value of the seven-year framework contracts issued to six companies in 2020.

The ongoing infilling and demolition programme represents a clear move towards the intervention-based approach proposed by Highways England in its DSP.

Highways England was unaware of the local aspirations to repurpose and reuse the 17 structures...

This statement contrasts with Baroness Vere's assertion in her letter to the Committee of 16 April 2021, in which she said that:

"HE would not enter a phase of works without clarity over the aspirations for potential re-use..."

Highways England has **not** engaged in meaningful dialogue with "other stakeholders", beyond cursory questions of its partners in Sustrans, Railway Paths and the Railway Heritage Trust. This has left many groups disenfranchised, put community schemes in jeopardy and caused undue concern to those involved, compounded by the pursuit of infilling schemes under Permitted Development powers which has circumvented the engagement and scrutiny that would come through the submission of a planning application.

In that list they highlighted schemes that were the subject of potential infilling about which they had written to local authorities. Suitable schemes for 46 bridges from that list [December 2020] are still under development and will be shaped by any feedback Highways England receive regarding future plans to re-purpose or re-use these structures.

This is a clear attempt to rewrite history.

Of the 134 structures (excluding one duplicate entry) on the list provided by Highways England in December 2020 (appended for reference), ten were the subject of pre-existing planning applications or permissions. Four schemes were described as “confirmed”, 51 were “developing”, 78 were “potential” and one was supposedly withdrawn despite the Local Planning Authority (LPA) being informed that infilling was needed “to prevent an emergency arising”.

In 2020, a total of 34 Permitted Development notification letters were sent to LPAs, mostly invoking Class Q powers (or the equivalent in Scotland) which facilitate temporary works in emergency situations presenting a serious threat of death or injury.

These template letters stated that the structures represent “an ongoing and increasing risk to public safety” and “the [infilling] works **are being undertaken** in order to prevent an emergency arising”.

We have appended a typical sample for reference.

According to Highways England, the remaining 90 structures were the subject of letters which effectively invited LPAs to allow infilling under Permitted Development. The company has provided 62 of these letters under FoI, but was unable/unwilling to produce the other 28.

These template letters stated that “To prevent further deterioration of the bridge from occurring and remove the associated risk of structural collapse and harm to the public, it is proposed to infill the bridge to ensure the long term stability of the bridge and road.”

“...infilling the structure **is considered necessary**...”

We have appended a typical sample for reference.

Highways England has refused to issue an updated list of the affected structures and Baroness Vere overlooked the Committee’s request to provide one; neither did she answer the Committee’s question as to whether there is “a further list of structures which Highways England intends to infill or demolish after the current programme is completed.” These omissions speak volumes.

According to statements issued by Highways England to the media, two of the 46 schemes now regarded as “still under development” (involving structures SGZ/254m26ch, a Brunel-built bridge in Cornwall, and HTL/61 in Glasgow) were the subject of Permitted Development letters asserting the need to undertake works in order to “prevent an emergency arising”. It is impossible to find a plausible path from a situation where a notification of intended emergency works was submitted to one where the immediate risks are so low that a suitable scheme has not yet been determined.

There was nothing ambiguous about Highways England’s letters to the LPAs: infilling was the only option mentioned and the intention to progress the works was clear, reinforced by disreputable scaremongering over the threat of structural collapse or use of powers only applicable in an emergency.

From August 2021, this web page will also house an archive which will be used to make assessment reports publicly available using a phased approach to publication...

We regard this as an attempt to circumvent obligations under the Environmental Information Regulations. The “phased approach” will allow Highways England to kick into the long grass EIR requests for material “in the course of completion, unfinished documents or incomplete data”. The company has already used this exception in relation to the list of 69 structures still supposedly earmarked for infilling.

The web page should, from the outset, include a **full** list of all structures threatened with infilling or demolition, together with the most recent Detailed Examination and Visual Inspection reports, as well as a structural assessment where available. Without the other reports, the assessment is of limited value.

Regarding the heritage railway companies, Highways England discussed the former branch line with both Eden Valley Railway and Stainmore Railway. They had both raised their long-term aspirations to connect their operations and provide a rail link between Kirkby Stephen and Appleby-in-Westmoreland; however, it would be a heritage railway as both towns are already connected by the Settle to Carlisle line operated by Network Rail. Highways England welcomed these discussions. Both heritage railway companies readily acknowledge the significant hurdles to overcome in the form of missing bridges, including crossing the River Eden, land ownership, and Transport and Works Act Orders. Their conclusion was that a connection, if it ever happened, was a long-term future aspiration. They acknowledged that the additional impact of reversing the infilling of one bridge in comparison to the other works required was negligible.

This statement represents a constructed reality and is intended to deceive, introducing the charade of discussions about “the former branch line” which are of no relevance.

The Eden Valley and Stainmore railways were involved in **absolutely no dialogue regarding the infilled bridge at Great Musgrave**, either directly with Highways England or indirectly via a third party. We have appended for reference a joint letter written by the two railways to the Acting Chief Executive of Highways England in which this position is made clear.

On 18 October 2019, Highways England met a Councillor and representative of the Stainmore Railway Company (SRC) to discuss the proposed infilling of a bridge at Waitby near Kirkby Stephen, known as EDE/9. At no time was Great Musgrave bridge (EDE/25) mentioned, as the minutes of the meeting demonstrate (appended for reference).

In January 2021, Railway Paths Ltd met with the Eden Valley Railway to discuss the transfer of two sections of trackbed needed for its extension, but this was blocked by the DfT. Again, Great Musgrave bridge was not mentioned.

Neither the Eden Valley nor Stainmore railway was aware of any threat to Great Musgrave bridge until The HRE Group published Highways England's list of at-risk structures in January 2021, and did not know that work had actually started until an SRC Director visited site on 24 May 2021 following a tip-off about contractor activity there.

The bridge had been assessed as being unsafe due to it having no weight restriction applied. A weight limit is the responsibility of the local highways authority, in this case Cumbria County Council.

The bridge had **not** been assessed as "unsafe"; it had been assessed as having a capacity of 17 tonnes. Use of the word "unsafe" is indicative of the exaggerated and misleading language persistently employed by Highways England.

Vehicles of more than 18 tonnes making through journeys were effectively prohibited from crossing Great Musgrave bridge by a weight restriction on the nearby A685. The nature of the road crossing the bridge further constrained its use by larger vehicles. We understand that Cumbria County Council had not imposed a weight restriction because, in the prevailing circumstances, one was not deemed necessary. This decision is supported by the condition of the bridge which had no defects associated with overloading.

Highways England has also made a commitment to reverse the infilling at no cost should a feasible heritage railway line start work and require the connection at Great Musgrave.

We have asked Highways England how this commitment would be triggered and/or enforced if/when the managers who made it have moved into other roles/organisations. We have not received a reply. Neither has Highways England told us how much this commitment would further burden the taxpayer. Infilling was costed at £124K.

When work to make the bridge safe was substantially complete, EDC (Eden District Council) recommended that Highways England stop in order that they could conduct a more thorough analysis of the work to re-check whether it qualified to be undertaken under permitted development...

Eden District Council **twice** asked Highways England to pause its infilling operation whilst the circumstances around planning were properly investigated. The company refused on both occasions and invoked Permitted Development (Class Q) powers relating to emergency situations. The **first** request was on or before 1 June 2021 when the infilling work was at an early stage (a photo from that date is appended for reference) and two weeks before concrete was pumped beneath the arch.

...the need to start work on the bridge was urgent. The structure was weak, potentially causing the bridge deck to fall suddenly.

This statement is either a deliberate attempt to deceive or a demonstration of incompetence.

Great Musgrave bridge was not “weak” and masonry arches do not fail suddenly. We have struggled to find any historic example of such an event, except where a structure was subject to scour or an exceptional flood surge. There was no evidence of any collapse mechanism developing at Great Musgrave.

The bridge was recorded as being in Fair condition following a Detailed Examination in 2017 and the Visual Inspection in 2020 recorded only minor localised defects with modest deterioration. The inspector recommended the repointing of open joints to the soffit at a cost of £5K. The structural assessment specifically stated that repointing would have increased the bridge’s capacity from 17 tonnes to 40 tonnes.

Highways England’s engineer recorded the bridge as presenting “No significant risk” to public safety, with a “Low” likelihood of any adverse event occurring and “No action [was] required”. The structure was Priority 2: “action within the next five years”.

With this masonry bridge, there was no plausible path between the condition recorded during the most recent Visual Inspection of 8 February 2020 and the asserted need for urgent action to prevent a sudden fall of the deck, culminating in the start of work in May 2021.

The letter notifying Eden District Council of the infilling works, dated 23 April 2020 (appended for reference), did **not** invoke Permitted Development (Class Q) powers and, unlike other template letters, did not identify any specific defects as justification for the proposed works.

What has become clear over the past six months is that there is no meaningful engineering, public safety or cost justification for Highways England’s infilling and demolition programme. It is being progressed not on the basis of risk, but opportunistically - taking advantage of the perverse decisions made by a small number of Local Planning Authorities that planning permission is not needed for these significant engineering schemes. The work is being undertaken only in the narrow pursuit of the joint HE/DfT policy of reducing the liabilities associated with the Historical Railways Estate.

The Highways England Director responsible for the HRE proudly announced that his company’s work at Great Musgrave had “preserved the structure”. We have appended a photograph of the bridge after infilling, upon which you can make your own judgement. We believe the Director’s statement was an insult to the many thousands of people who invest their care in the conservation of our nation’s heritage. They do not bury historical structures beneath hundreds of tonnes of material, condemning them to inevitable damage due to bonding between concrete and stonework.

Highways England and the Department for Transport are completely out of touch on this issue and the Minister's perpetuation of their deceit is an embarrassment. She should instead be exposing the infilling and demolition programme to critical scrutiny.

Subscribers to *New Civil Engineer* magazine recently expressed "shame" in their profession after images from Great Musgrave were published in newspapers and on social media. In a House of Lords debate on 6 July 2021, Lord Faulkner of Worcester accused Highways England of "cultural vandalism", whilst Lord Rosser said the company had adopted "a back-door process using permitted development powers". We concur with their Lordships' views.

At great cost to the taxpayer and supported by a faction within the Department for Transport, Highways England is putting infrastructure beyond use without any meaningful appraisal of its future sustainable transport value, without any meaningful dialogue with stakeholders, without any appraisal of its heritage significance and without any analysis of the environmental impacts. In doing so, the company is very often trampling over those with a vested interest, compromising the efforts of good people seeking to make a positive difference for their communities.

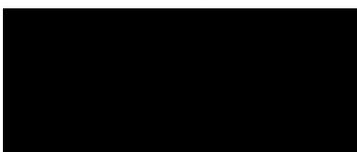
In her letter to the Committee of 16 April 2021, Baroness Vere claimed that "where there is an interest to retain access [beneath a bridge], HE will work to retain this access." Great Musgrave disproves this claim. And in Dumfries & Galloway, a farmer faces the prospect of being unable to access 3.4 acres of his property because of a bridge infilling scheme due to begin in a matter of weeks. For more than 60 years, his family has been passing beneath the structure which remains in Fair condition and has a capacity of 40 tonnes. But, without dialogue and contrary to Baroness Vere's assertion, access will soon be blocked off. Quite simply, this is bullying.

This is the destructive culture we are up against. The Historical Railways Estate needs to be managed by a positive custodian, determined to deliver the greatest possible social and economic value through collaboration with those who need it to help build a better future. That custodian is demonstrably not the DfT and not Highways England.

We again ask the Committee for its urgent attention to this matter and we seek further dialogue in an effort to challenge Highways England's programme more robustly.

We look forward to hearing from you.

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.

Copied to:

Baroness Vere of Norbiton: Minister for Roads, Buses and Places

Lord Faulkner of Worcester

Lord Berkeley OBE

Baroness Neville-Rolfe: Chair, Built Environment Committee

Ruth Cadbury MP: Co-Chair, All Party Parliamentary Group for Cycling & Walking

Selaine Saxby MP: Co-Chair, All Party Parliamentary Group for Cycling & Walking

Liz Saville Roberts MP: Chair, All-Party Parliamentary Group on Heritage Rail

[Redacted]

[Redacted]

[Redacted]

[Redacted]

Duncan Smith: Acting Executive Director for Operations, Highways England

[Redacted]



A photograph showing Highways England's worksite at Great Musgrave at midday on Tuesday 1 June.



According to a Highways England Director, the infilling of Great Musgrave bridge has "preserved the structure."

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The Eden Valley Railway Order 2004

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S T A T U T O R Y I N S T R U M E N T S

2004 No. 1817

TRANSPORT AND WORKS, ENGLAND

TRANSPORT, ENGLAND

The Eden Valley Railway Order 2004

Made
Coming into force

13th July 2004
3rd August 2004

Whereas an application has been made to the Secretary of State, in accordance with the Transport and Works (Applications and Objections Procedure) (England and Wales) Rules 2000(1) made under sections 6, 6A, 7 and 10 of the Transport and Works Act 1992(2), for an order under sections 1 and 5 of that Act;

And whereas the objection to that application has been withdrawn;

And whereas the Secretary of State has determined to make an Order giving effect to the proposals comprised in the application with modifications which in his opinion do not make any substantial change to the proposals;

And whereas notice of the Secretary of State's determination was published in the London Gazette on 1st July 2004;

Now, therefore, the Secretary of State, in exercise of the powers conferred by sections 1 and 5 of, and paragraphs 1, 8, 15 and 17 of Schedule 1 to, that Act and of all other powers enabling him in that behalf, hereby makes the following Order:

Citation and commencement

1. This Order may be cited as the Eden Valley Railway Order 2004 and shall come into force on 3rd August 2004.

Interpretation

- 2.—(1) In this Order—

“electronic communications apparatus” has the same meaning as in the electronic communications code;

“the electronic communications code” has the same meaning as in Chapter 1 of Part 2 of the Communications Act 2003(3);

“the railway” means the railway described in the Schedule to this Order together with all lands and works relating thereto;

“the relevant date” means the date of the coming into force of this Order in relation to so much of the railway as at that date is owned by the Trust and in relation to any other part of the railway, the date upon which that part is transferred to the Trust;

“the Trust” means the Eden Valley Railway Trust, a company incorporated under the Companies Act 1985(4) and whose registered office is at 1 Victoria Road, Barnard Castle, County Durham, DL12 8HW; and

“the undertaker” means the Trust and following any sale, lease or underlease under article 4 this expression shall mean or include the transferee within the meaning of that article.

- (2) Any enactment by which the construction and operation of the railway was authorised shall have effect subject to the provisions of this Order.

Transfer of rights and obligations to undertaker, etc

3.—(1) Except as may be otherwise provided in this Order, as from the relevant date the railway or any part of it shall continue to be subject to all statutory and other provisions applicable to it at that date (in so far as the same are still subsisting and capable of taking effect) and the undertaker shall, to the exclusion of BRB (Residuary) Limited, be entitled to the benefit of, and to exercise, all rights, powers and privileges, and, subject to paragraph (2), be subject to all obligations, statutory or otherwise, relating to the railway (in so far as the same are still subsisting and capable of taking effect), to the intent that BRB (Residuary) Limited shall be released from all such obligations.

(2) Without prejudice to the generality of paragraph (1), sections 116 to 118 of the Transport Act 1968(5) shall, as from the relevant date, apply to the railway or the relevant part of it as if references to the British Railways Board were references to the undertaker.

Transfer of railway by undertaker

- 4.—(1) In this article—

“lease” includes an underlease and “lease” where used as a verb shall be construed accordingly;

“the transferor” means any person by whom the railway, or any part of it, is leased or sold pursuant to this article;

“the transferee” means any person to whom the railway, or any part of it, is leased or sold pursuant to this article; and

“the transferred undertaking” means so much of the railway as is leased or sold pursuant to this article.

(2) The undertaker may, with the consent of the Secretary of State, sell or lease the railway, or any part of it, to any person on such terms and conditions as may be agreed between the undertaker and that person.

(3) Except as may be otherwise provided in this Order, the transferred undertaking shall continue to be subject to all statutory and other provisions applicable to it at the date of the sale or lease (in so far as the same are still subsisting and capable of taking effect) and the transferee shall, to the exclusion of the transferor, be entitled to the benefit of, and to exercise, all rights, powers and privileges, and be subject to all obligations, statutory or otherwise, relating to the transferred undertaking (in so far as the same are still subsisting and capable of taking effect), to the intent that the transferor shall be released from all such obligations.

- (4) Paragraph (3) shall have effect during the term of any lease granted, and from the operative date of any sale, under paragraph (2).

Operation of railway

- 5.—(1) The undertaker may operate and use the railway as a system, or part of a system, of transport for the carriage of passengers and goods.

(2) Subject to paragraphs (3) and (4), the motive power to be used on the railway shall be steam, diesel-electric, diesel, internal combustion, electric-battery or such other motive power as the Secretary of State may in writing approve.

(3) Nothing in this Order shall authorise the use of electrical power as motive power on the railway unless such power is obtained from storage batteries or from a source of generation entirely contained in, and carried along with, the engines and carriages.

(4) If electrical power is used as motive power on the railway, such electrical power shall not be used in such a manner as to cause, or be likely to cause, any interference with any electronic communications apparatus or with the use of such apparatus.

Safety of approved works, etc

6.—(1) Where pursuant to regulations(6) made under section 41 of the Transport and Works Act 1992 (approval of works, plant and equipment) approval has been obtained from the Health and Safety Executive with respect to any works, plant or equipment (including vehicles) forming part of the railway, such works, plant and equipment shall not be used in a state or condition other than that in which they were at the time when the approval was given unless any change thereto does not materially impair the safe operation of the railway.

(2) If without reasonable cause the provisions of paragraph (1) are contravened, the undertaker shall be guilty of an offence and liable on summary conviction to a fine not exceeding level 3 on the standard scale.

(3) No proceedings shall be instituted in England and Wales in respect of an offence under this article except by, or with the consent of, the Health and Safety Executive or the Director of Public Prosecutions.

Signed by authority of the
Secretary of State for Transport

Ellis Harvey
Head of the Transport and Works Act Orders Unit,
Department for Transport

13th July 2004

SCHEDULE THE RAILWAY

Article 2

A portion (approximately 9,300 metres in length) of the existing Eden Valley branch railway in the county of Cumbria, district of Eden, as authorised by the Eden Valley Railway Act 1858(7), commencing in the town of Appleby at a point immediately to the south of the level crossing carrying the unclassified road known as Station Road over the railway and terminating in the town of Warcop at the existing terminus at Flitholme.

EXPLANATORY NOTE

(This note is not part of the Order)

This Order provides for the transfer to the Eden Valley Railway Trust of the statutory powers to maintain and operate a portion of the existing Eden Valley branch railway in the county of Cumbria, district of Eden, extending from Appleby to Warcop, and makes other provisions as to the railway. The applicant for the Order is the Eden Valley Railway Trust.

(1) [S.I. 2000/2190](#).

(2) [1992 c. 42](#), as amended by [S.I. 1998/2226](#).

(3) [2003 c. 21](#).

(4) [1985 c. 6](#).

(5) [1968 c. 73](#).

(6) [S.I. 1994/157](#).

(7) [1858 c.xiv](#).



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10th September 2020

Cornwall Council
New County Hall
Treyew Road
Truro
TR1 3AY

Project Name: HRE Works Framework
Project Number: B28280JA

Subject: Disused Railway Bridge SGZ 254m 16ch "" – Infilling works

Dear Sir/Madam

I am writing to you on behalf of our Client, Highways England, Historical Railways Estate (HRE), formerly BRB (Residuary) Ltd to inform you of planned support works to the structure SGZ 254m 16ch via structural infill. HRE is responsible for the Historical Railways Estate following the abolishment of BRB (Residuary) Ltd. This responsibility is undertaken on behalf of the Department for Transport, who own the structure. Therefore, the structure is crown property.

SGZ 254m 16ch, a single span masonry arch bridge constructed circa 1846. The structure is in a deteriorating condition with damp and calcite deposits throughout the arch barrel. There is standing water beneath the structure. It carries a track over the trackbed of the former St Germans to Defiance platform railway line. The nearest postcode is PL12 4QY. It is located at approximate OS grid reference SX 391 567. A location plan is enclosed for your information.

As the structure represents an ongoing and increasing risk to public safety and is owned by the Secretary of State for Transport, so is deemed 'Crown Property', Highways England HRE propose to undertake the support works 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.

Can you please confirm receipt of this letter by return email: hreprioritystructu@jacobs.com. Please do not hesitate to contact me should you require any further information.

Yours faithfully

████████████████████
████████████████████

Civil Engineer

23rd April 2020

Eden District Council

Town Hall
Corney Square
Penrith
Cumbria
CA11 7QF

Project Name: HRE Works Framework
Project Number: B28280JA

Subject: Disused Railway Bridge EDE/25 "Great Musgrave" – Infilling Works

Dear Sir / Madam

I am writing to you on behalf of our client, Historical Railways Estate (HRE), formerly BRB (Residuary) Ltd, to inform you of planned infilling works to structure EDE/25. HRE is responsible for the Historical Railways Estate following the abolishment of BRB (Residuary) Ltd. This responsibility is undertaken on behalf of the Department for Transport, who own the structure.

EDE/25, Great Musgrave, is a single span masonry arch bridge likely constructed circa 1862. A BD21 assessment undertaken in 1998 found the structure suitable only for 17 tonne GVW. It carries the B6259 over the track bed of the former Eden Valley Jn to Kirkby Stephen (Warcop Branch) railway line. The nearest postcode is CA17 4DW. It is located at approximate OS grid reference NY 764 136. A location plan is enclosed for your information.

To prevent further deterioration of the bridge from occurring and remove the associated risk of structural collapse and harm to the public, it is proposed to infill the bridge to ensure the long-term stability of the bridge and road. Once the works are complete, the structure will be unrestricted for all traffic conforming to Authorised Weight Regulations.

The scheme will include infilling beneath the span with structural fill comprising of a layer of 6C free draining material with HDPE pipes laid on top at current ground levels to aid surface water through flow. The remaining fill beneath the span will comprise 6N granular structural fill and foamed concrete. New embankments will be formed from 6N material and tied into the existing ones. All new and worked surfaces will be topsoiled and grass seeded. For an artistic impression of the structure before and after the infilling works please refer to the illustrations at the end of this letter.

We have reviewed the Eden Local Plan and note there are no policies specifically safeguarding former railway lines.

23rd April 2020

Subject: Disused Railway Bridge EDE/25 "Great Musgrave" – Infilling Works

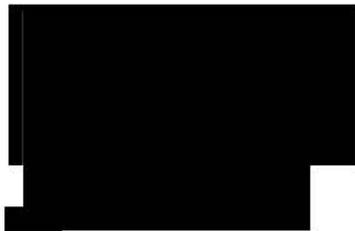
As part of the infilling works, a preliminary ecological appraisal will be undertaken to determine any constraints, with further surveys scheduled should they be recommended following the initial survey. A full desk study to assess any impacts on designated sites and their qualifying features and zones of influence will be carried out; an initial search has highlighted 8 SACs within 30km of the structure (River Eden SAC is within 1km) and River Eden and Tributaries SSSI within 1km.

The bridge is in poor condition with a reduced load carrying capacity, infilling the structure is considered necessary to prevent further deterioration and remove the risk of future collapse.

We trust the above proposal is acceptable. We would like to obtain any general comments the council may have, or details of any constraints that may be imposed on the works by the local authority.

Can you please confirm receipt of this letter and provide any comments by return letter or email to hre.priority.structures@Jacobs.com by 21/05/2020.

Yours faithfully

A large black rectangular redaction box covering the signature area.

Civil Engineer



The Eden Valley Railway Project

Kirkby Stephen East – Warcop – Appleby East



Mr. Nick Harris
Acting Chief Executive, Highways England

(By email)

21st June 2021

Dear Mr. Harris

Great Musgrave Bridge EDE/25

In 1995, plans were formulated to reopen a section of the former Eden Valley Railway in Cumbria from Appleby East to Kirkby Stephen East (KSE) and this project was included in the 2008 Upper Eden Community Plan. Since 1995, two separate groups of volunteers at Warcop (The Eden Valley Railway Company, EVR) and KSE (Stainmore Railway Company, SRC) have worked tirelessly to reopen separate sections of the route, build relationships with landowners / local / national organisations and develop plans to ultimately link Appleby East with KSE once more.

In addition, the Eden Valley Railway Project has received national recognition e.g. a National Railway Heritage Award to SRC in 2017 and very significant investment has been awarded e.g. the current National Lottery Heritage Fund (NLHF) grant of £954,000 to SRC and our partners, The Locomotive Conservation & Learning Trust. A key aspect of NLHF, and other substantial support, is the tremendous potential of this project to bring tourism and economic benefits to the Upper Eden Valley.

The section of railway from Appleby East to KSE has a significant number of small bridges (access for farmers etc), two intact road bridges (EDE/9 & EDE/25) and a missing river bridge at Great Musgrave. All of these bridges are inspected annually by our fully qualified bridge engineer and plans have been drawn up to replace structures where they are missing e.g. over the Eden at Great Musgrave.

In view of the vast amount of effort invested in this project by our volunteers over the last quarter of a century for the benefit of the local community, we are writing on behalf of the two organisations to express our collective dismay and huge disappointment regarding your recent infilling of EDE/25. There are many unanswered issues surrounding your actions which are being addressed by other organisations, but we would much appreciate your response to the following two specific matters.

The Eden Valley Railway Project comprises:

Stainmore Railway Company Ltd, Kirkby Stephen East Station, South Road, Kirkby Stephen, Cumbria, CA17 4LA

Company number: 03959471

Eden Valley Railway Trust, Warcop Station, Warcop, Appleby-In-Westmorland, Cumbria, CA16 6PR

Company number: 03182769, Charity number: 1054760

Firstly, Highways England (HE) was clearly aware of the proposed use of EDE/25 for the Eden Valley Railway Project, yet neither organisation had been consulted prior to infilling in direct contradiction to your press statements which we feel is just one example of how HE has distorted the truth. You claim that the EVR were consulted on this matter, yet our officials have no record whatsoever of any meeting with any representatives of HE. If this was indeed the case, then we would be very grateful if you could please provide us with details of where, when and with whom this alleged meeting took place.

Secondly, in further press statements, you say 'We can confirm that any work carried out by the HRE in the future will not thwart any potential and/or [sic] active travel schemes, or any rail re-openings, including the extension of preserved railways. We have paused infilling and demolition works where local authorities have raised queries about the works'.

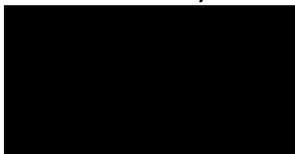
It is our understanding that Eden District Council (EDC) asked HE on two separate occasions to pause the works so that a detailed investigation could be undertaken. On both occasions, HE failed to do so. Given your statement above, could you please explain why HE completely ignored these requests from EDC?

Given that you now state you will not thwart any future extensions to heritage railways, it appears grossly unfair to the Eden Valley Railway Project that we should be penalised in this way. We are therefore writing to formally request that you either please remove the infill forthwith and make good any damage to the structure, or grant funds to the SRC / EVR to cover this work when the time is right.

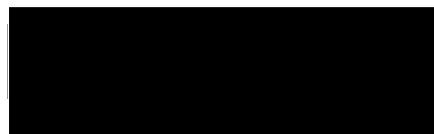
We regard the actions of HE in respect of EDE/25 to be without justification and deeply detrimental to our longstanding goals. It is entirely appropriate that HE makes reparation for the significant additional cost and difficulty imposed on our future operations without prior consultation.

We look forward to hearing from you.

Yours sincerely



Project Manager SRC



Civil Engineering Director EVR Co

Copied to



Rt Hon Grant Shapps MP, Transport Secretary
Huw Merriman MP, Transport Committee
Liz Saville Roberts MP, APPG - Heritage Rail
Lord Faulkner of Worcester

Dr Neil Hudson MP, Penrith & The Border
Baroness Vere, Transport Minister



Rt Hon, the Baroness Morgan of Cotes

Historical Railways Estate
visit to Waitby – Friday, 18 October, 2019

██████████ is responsible for the HRE's northern area which includes approximately 850 bridges out of a total nationwide of approximately 3200 bridges.

Bridges undergo an annual visual inspection and a full tactile inspection every six years.

Each bridge receives a score and goes in one of four categories: priorities 1, 2, 3 or 4. The category determines the HRE response.

Bridge EDE/9 is priority 2 because it is structurally weak. Bridge DNT/156 is more solidly constructed and is either priority 3 or 4.

The HRE has submitted a strategic plan to the DfT for the infilling of priority 1 and priority 2 bridges but this plan has not yet been agreed. The plan may be deferred until 2020.

There are currently no plans to infill priority 3 or priority 4 bridges such as bridge DNT/156.

Once the strategic plan has been accepted by the DfT it will take approximately two years to organise the infilling of bridge EDE/9 so the work is unlikely to be begin before 2022.

The HRE would either infill the bridge [which is the cheapest and therefore the preferred option] or shutter and concrete 'straight down' [which is the only option if the land either side of the bridge is privately owned].

It is important to note that bridge EDE/9 cannot simply be taken out of the programme because decisions have to be made on an objective basis.

The HRE will require planning permission from the YDNPA before work can commence. The best way to protect the bridge will be for it to be recognised as a heritage asset in the Eden Local Plan. There is a precedent for this with the planning application for a starter home at Waitby Crossing being refused in October, 2018. One of the reasons given was as follows: *'The proposed development has not been supported by an assessment of the significance of the former Eden Valley Railway line. The dwelling would be an obstacle to its restoration preventing a sustainable rural tourism and leisure initiative from being fulfilled'*. In the light of that ruling the HRE would probably have to incorporate a tunnel/tube in its application to allow the free passage of trains. As a matter of interest the Eden Local Plan is due to be reviewed in 2020. The process is likely to take two years to complete.

An alternative would be to transfer ownership of the bridge to Cumbria County Council which would receive a sum of money from the HRE equivalent to the cost of infilling the bridge [approximately £200,000]. CCC has so far rejected the idea of taking ownership because it does not want to accept liability for the bridge. The person to contact in order to discuss the matter further is Malcolm Sutherland the senior bridge engineer for CCC.

Another possibility would be for the Stainmore Railway Company to pay to have bridge EDE/9 strengthened. ██████████ estimated the cost of this remedial work to be in the region of £40,000. There would then be less risk attached to the bridge and it would no longer need to be infilled.

One complicating factor to be taken into account is the crucial role played by ██████████ who is the Head of Estates at the DfT.

Mr ██████████ has the right to veto any proposal and prevent trains passing under bridge EDE/9. His exact powers will need to be investigated further.