



Department
for Transport

Baroness Vere of Norbiton
Minister for Roads, Buses and Places

Great Minster House
33 Horseferry Road
London
SW1P 4DR

Tel: 0300 330 3000
E-Mail: baroness.vere@dft.gov.uk

Web site: www.gov.uk/dft

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

16 April 2021

Dear Huw,

***Protocol Agreement between Department for Transport and Highways England:
Historical Railways Estate***

Thank you for your letter of 23 March 2021 to Nick Harris, Acting Chief Executive of Highways England Ltd, and to me. I am replying on behalf of both of us after having consulted Highways England.

For your ease of reference, I have quoted in *italics* below the relevant sections of your letter to which my response relates.

We urge Highways England and the Department for Transport not to view the estate primarily as a risk to be minimised, but rather as assets to be preserved, repurposed for public benefit and enjoyed.

Under its 2015 Protocol Agreement with the Department for Transport, Highways England's role is to reduce the liabilities on the Secretary of State from individual structures within the estate. The estate is not only part of our national heritage, but includes many strategic assets with demonstrable public value. We would like to see the Protocol Agreement amended to reflect the cultural and strategic value of these historic structures.

Under the Protocol Agreement, Highways England is also required to co-operate with the Department in its endeavour "to transfer the Heritage Estate (in whole or in part) to local authorities and other third parties." Highways England, as part of this, is required to produce and maintain a plan of engagement. We would be grateful to know what steps the Department and Highways England are taking to transfer parts of the Historical Railways Estate to local authorities and third parties, especially local community groups.

Highways England (HE) has the remit on behalf of the Department for Transport (DfT) to maintain safety of the Historical Railways Estate (HRE). HE is, however, working hard to re-purpose the HRE where feasible. HE appreciates the value of the Estate and want to see it both safely and productively used. As such, HE welcomes the view of the Committee that the estate is something that, where possible, is something that should be preserved, repurposed for public benefit and enjoyed.

HE's five-year plan for managing circa 3,000 structures includes repair, strengthening and refurbishment of structures and this can sometimes entail infilling or occasional demolition. HE will not usually demolish or infill if they are notified of a potential feasible future use. Taking examples of the work of HE in this area: repair work is underway on the [Twizel](#)

[Viaduct](#) in Northumberland which will allow the public to continue to enjoy the existing permissive path across the river Till. Working with Scottish Borders Council, HE is making [Boleside Road footbridge](#) safe for public use again. The Local Authority had been forced to close the former railway structure, which carries a footpath across the former Selkirk Branch near Galashiels in the Scottish Borders, at the turn of the year after raising concerns over its condition and instigated an ownership search.

A transfer to Daventry District Council in Northamptonshire of the Catesby Tunnel has recently taken place as part of its re-use as a vehicle testing facility. Agreements are also in-place to transfer seven bridges and a viaduct to local authorities in 2021 and two bridges in 2022. HE is actively discussing opportunities with local authorities and the Welsh Government to transfer the Rhondda and Abernant Tunnels for future leisure use. HE is in discussion with Railway Paths Ltd and Sustrans about a number of other bridges and tunnels.

The agreed transfers will support future cycle routes in, for example, Cornwall, Sussex, East Ayrshire, South Wales and Derbyshire. To support other uses, transfers are agreed, or are being explored, in Bordesley, Castlefield in Manchester, Coventry and Northumberland. These include plans to use assets in proposed Heritage Railways and a high-level garden. HE often finds that these positive examples are not highlighted in media coverage or in the good work that campaign groups do to highlight structures that they feel are in need of preservation.

The DfT and HE work with stakeholders and partners and have established many positive relationships. HE has contacted the local authorities for all 131 bridges within the HRE and this has been ongoing for several years. This contact has ranged from formal planning applications as well as direct conversations aimed at generating engagement with a local authority to understand their plans and aspirations for an asset. HE would not enter a phase of works without clarity over the aspirations for potential re-use, or without ensuring the correct planning processes were being followed. To date, our plans for 17 of the 131 structures have been adapted or paused to look at options to retain access or retain the asset.

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### ***Plans to demolish and infill parts of the Historical Railways Estate***

*We are concerned to hear about Highways England's plans to infill or demolish parts of the estate. We have been informed that 130 bridges and tunnels will be demolished or infilled over the next five years. In addition, we understand that up to 15% of the estate (around 480 structures) is at risk of being demolished between now and 2029/30.*

*Many of these historic structures already have an identified use and many more have clear potential to be used in future. Historic bridges, viaducts and tunnels, for example, help to facilitate walking and cycling routes throughout the country. Plans to demolish and infill these structures not only block existing, and potential, walking and cycling routes, but also prevent the structures being used to reopen historic railway lines.*

*Around one-third of these 130 structures, for many reasons, have no realistic prospect of offering any public value. In such cases, it is reasonable to demolish or infill these structures, but, in principle, effort should be made to preserve the estate and encourage local communities to make use of these assets.*

I support the Committee's encouragement to find routes to preserve assets where possible and this is a principle that guides our work for the HRE. HE only pursues demolition when absolutely necessary for matters of public safety and within the bounds of our Protocol. The correct figure for structures identified as at risk of demolition between now and 29/30 is 15, not 480.

HE's ongoing programme is developed using a risk assessment carried out by its expert engineers. Each structure is scored following this methodology and given a priority rating as follows:

|                    |                                                 |
|--------------------|-------------------------------------------------|
| Priority 4         | No works required                               |
| Priority 3         | Some concerns but no action required at present |
| Priority 2         | Action within the next 5 years                  |
| Priority 1         | Action within the next 12 months or sooner      |
| Not fully reviewed | Complete review process as soon as possible     |

During the course of this process, where there is an interest to retain access, HE will work to retain this access. Its engagement with local authorities and other stakeholders is part of uncovering that interest where it exists. Factors that also influence this are where there is a known use, a protected route, or it is a planning requirement. Our preference, and in line with the HRE Protocols, is to transfer ownership, but sometimes this is not possible until the structure is made safe. Furthermore, standard infilling is not irreversible and has been successfully done in the past. If plans in the future emerge to reuse a closed branch line for example, the infill can be dug out.

The Chris Hoy Cycle Way is a good example of our work to enhance an active travel route. The structure is a priority 3 ranked structure due to the mitigation HE has put in place to keep the structure safe through propping. HE has discussed several times with the local authority the option of them taking ownership, without success. HE's planned works are to infill with a permanent route through the structure, and this will move the ranking to a priority 4 and may help the council re-consider taking ownership.

The existing Protocol between DfT and HE was written on the basis that maintenance of these properties would remain with HE. However, there are currently on-going discussions within both DfT and HE with a view to seeing how best to approach the Local Government sector for their engineering departments to take over some, or all, of the day-to-day maintenance of HRE properties in their areas on financial terms to be agreed. It is now generally accepted that the more direct involvement of the local authority sector would be of benefit as the will increases to open up the Estate for more public use. Nevertheless, this will have resource implications which need to be considered by all parties before substantial changes are fully pursued.

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Use of Permitted Development Orders

We have also been informed that Highways England is proposing to use Permitted Development Orders, designed to be used on urgent safety grounds, to enable demolition and infilling to take place. Public safety is paramount, and there may be circumstances in which these historic assets pose an urgent risk to public safety and urgent action is needed.

However, where Permitted Development powers are used, we would expect to see work carried out within weeks, rather than months or years later.

In non-urgent cases, the future of these historic bridges, viaducts and tunnels should be determined by an open, transparent and democratic process. Highways England should assess both the safety and value of these structures and, in non-urgent cases, apply to local authorities for planning permission, if it wishes to demolish or infill them.

We would be grateful if you could assure us in your reply that Permitted Development Orders will only be used when these historic structures pose an urgent, serious and demonstrable risk to the public and that demolition and infilling will be carried out promptly.

Permitted Development Orders exist in order to prevent an emergency from occurring and it is within this principle that HE would use such powers. Where works have been identified, letters are sent to the relevant planning authorities to check if there are any requirements or restrictions. HE is undertaking works in accordance with The Town & Country Planning (General Permitted Development) (England) Order 2015, in order to keep the public safe. HE uses permitted development rights (where appropriate) to undertake some but not all of the infilling & demolition schemes where issues of overriding public safety are in play. Most work completed to date has been granted full planning permission.

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***Use public money to preserve historic structures with strategic benefit***

*To help preserve our cultural heritage, public money should be used, where possible, to restore these historic assets, especially in circumstances where the restoration costs are cheaper or equivalent to the cost of rendering these structures beyond use. For example, we understand the average cost of infilling is around £145,000 per bridge, whereas the costs of strengthening to increase the capacity of historic bridges can be much lower, at £20,000 to £40,000 per bridge. We would like to know why it is better use of public money to infill, rather than strengthen, the bridges affected by the programme.*

HE's work serves to support preservation where possible. As detailed, of the over 3,000 structures managed, only 15 are subject to demolition and HE are actively working with a range of partners to identify future uses in examples across the country, from Twizel in Northumberland to locations in Cornwall.

In HE's experience to date, the difference in cost between strengthening and infilling is marginal. Additionally, strengthening leaves an ongoing maintenance liability which then further increases cost to the public purse. Strengthening is often not an option owing to the state of the structure upon assessment by engineers. In the interests of preservation, infilling does not render a structure useless in the future. Should a structure be subject to a different use in future, it is possible to reverse infilling work to bring a structure back into use.

The figures quoted for infilling in your letter include some where HE is providing an opening for future use. This inflates the average cost as providing an opening adds approximately 50% to the cost of infilling. This also serves as an illustration of where HE are acting to preserve a structure for future use.

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Restricting access

We have been informed that Highways England has objected to applications for new walking and cycling routes that pass beneath these historic structures and has fenced off parts of the estate to which the public previously had access. We would be grateful if you could set out what steps Highways England is taking to facilitate and encourage access to as much of the estate as possible.

HE is only aware of one case where it has formally objected to a proposed active travel route. The reason for this was that it would remove access to inspect and maintain a tunnel and attempts to transfer ownership to the Local Authority had failed.

Reasons for restricting access more broadly are often complex and it is essential to take these decisions on a case-by-case basis. For example, HE has repaired vandalism at 24

sites in the past year and erected five fences to deter antisocial behaviour. In these circumstances, it is right to restrict access and HE often does so at the request of adjacent landowners. HE receives complaints each year related to fly tipping, encroachment, trespass, vandalism and anti-social behaviour. In such circumstances, restricting access is often the most appropriate action to take.

Yaws,
Charlotte

BARONESS VERE OF NORBITON