



Department for Transport

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7 July 2021

Dear Huw,

Historical Railways Estate

Thank you for your letter of 16 June 2021 about the Historical Railways Estate

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

We have, however, been informed that the Department and Highways England no longer allow heritage railways to take responsibility for HRE structures. We would be grateful if you could confirm whether this is the case and, if so, what barriers there are to such organisations taking responsibility for these structures.

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. Before that can happen, it is essential that such organisations have a sufficiently good covenant to take on permanent liabilities, especially something of the nature of a public bridge. As you will appreciate, this is to ensure that safety is paramount.

There are ways to address such issues, for example a local authority can underwrite the liability and take a charge on assets. Cases such as this are in active discussion across the country. Highways England welcomes dialogue from heritage railway organisations willing to take this step.

A Transport and Works Act 1992 order is the usual way of authorising a new railway or tramway scheme in England and Wales. Any heritage railway organisation which wishes to take ownership of a Historical Railway Estate structure must also first get a Transport and Works Act order in place. The Department needs to be able to transfer ownership to bodies which have sufficient guaranteed long-term financial resources to meet the potential substantial maintenance costs of railway structures. Many heritage railway organisations are not able to demonstrate that capability and therefore the Department seeks to transfer to the relevant local authority who can then lease the railway property to them. An alternative whereby the local authority provides suitable long-term guarantees will be considered on its merits.

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***In 2016, Highways England stated its aim was to demolish 10-15% of the estate, subject to securing the necessary funding. We would be grateful if you could***

***confirm whether this target remains in place, and, if not, whether any revised target for demolition exists.***

Highways England's primary concern is the safety of the public. Noting the Committee's previous recommendations on this issue, Highways England's approach is to transfer responsibility of HRE structures so they can be repurposed and reused to support walking, cycling or new heritage railway lines wherever possible. Where this is not possible, they will be maintained and kept safe, sometimes by infilling. As outlined in my previous letter, infilling is reversible.

Highways England will only demolish as a last resort. It has confirmed to me that it has no target or aim to demolish any percentage of the HRE and will only look to do this where it is necessary on safety grounds.

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. I welcome the rigour that this exploratory approach brings to any discussion. That paper highlights that 10-15% of the estate could be demolished if there was no interest in them from other parties. It does not state that this is the preferred option.

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You told us 17 infilling schemes have been paused or adapted. We would like to know why this was necessary when you told us Highways England "would not enter a phase of works without clarity over the aspirations for potential re-use."

Highways England was unaware of the local aspirations to repurpose and reuse the 17 structures. It sought consent under permitted development rights to undertake maintenance to keep them safe. Upon receipt of feedback from those local planning authorities regarding their future aspirations for these structures, it paused or adapted schemes so that it could explore and, where possible, support these plans. We believe this is the right approach, listening in the cases where there may be other viable aspirations for these structures of which we were previously unaware.

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***We were pleased to read in the press that the number of bridges threatened with infilling has been reduced from 115 to 69. We would be grateful if you could confirm the basis upon which 46 bridges have been reprieved, given that Highways England's infilling programme was based on a risk assessment by expert engineers and structures are only proposed for infilling if they are "unsafe".***

Highways England shared a list of 115 schemes that were in various stages of development for maintenance in the interests of public safety. This list was released in response to a freedom of Information request in December 20. 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 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.

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We have been informed that Highways England is now routinely refusing to provide any information to members of the public about the ongoing infilling and demolition programme. We are concerned this may prevent community groups and other interested parties from making representations about structures of importance to them, particularly if no planning application has been submitted.

Highways England welcomes interest in the Historical Railways Estate and strives to be open and honest about its plans and aspirations.

They have received unusually high volumes of freedom of information requests for structural assessment reports. Before such reports can be shared, they have to be reviewed to redact personal details. This has resulted in a significant amount of work and some requests have had to be refused given the staff time required to deal with them, as set out within the bounds of Freedom of Information legislation.

To address this and ensure transparency, Highways England has recently launched a [Historical Railway Estate](#) page on its website. 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 to make this exercise manageable. I hope that this step is another sign of Highways England's constructive approach to its management of the Estate.

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***We have also been informed that there has been no dialogue with officers from either the Eden Valley or Stainmore railways about this bridge. We would be grateful if you could confirm the extent of Highways England's engagement with these two important stakeholders.***

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.

I appreciate the strong interest in this bridge, and it is important for me to note the many views about this case, which I and my colleagues at Highways England respect. As you would expect, beyond the heritage railway organisations Highways England has taken an inclusive and sympathetic approach at Great Musgrave. They have gone to great lengths to correct several inaccurate reports about their approach to this issue. I appreciate the opportunity to do the same here.

In April 2020, it advised Eden District Council (EDC) of its intention to undertake infilling work, to which the Council expressed no objection and confirmed that it would not require a planning application. In June 2021, EDC asked Highways England for more information regarding the work and it provided the reports and details, as requested. 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. Furthermore, Highways England speak regularly to its counterparts in the bridges

team at Cumbria County Council and discussed with them as well as officers at EDC prior to any work taking place.

As you would expect, Highways England also spoke to Sustrans, Railway Paths Limited and the Railway Heritage Trust. They received no objections from any of these important stakeholder groups before works began. Furthermore, as I set out below, 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.

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We have been informed that Highways England twice refused Eden District Council's request to pause works at the Cumbria bridge, despite not having planning permission. We would like to know why infilling continued in these circumstances and why the bridge presented an urgent risk to public safety.

Highways England proceeded based on advice given by Eden District Council (EDC) that planning permission was not required. EDC then contacted Highways England once work had started. When work to make the bridge safe was substantially complete, EDC 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, that is without planning permission.

The context here is that the need to start work on the bridge was urgent. The structure was weak, potentially causing the bridge deck to fall suddenly. A delay would have resulted in a project delay to 2022 due to ecological constraints on construction, owing to the presence of bats. Given the urgency, Highways England made the decision to proceed on the grounds of public safety, it acted on the advice that EDC had given it, and the work was progressed to a stage where a pause was no longer possible.

Moreover, Highways England has taken the pragmatic step of committing to reversing the infilling at no cost should a realistic prospect of a heritage railway start work.

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***We would be grateful if you could confirm a) the amount of funding that has been allocated to Highways England to manage the estate in this Parliament, b) the number and length of contracts issued for the management of the estate by Highways England and c) the total value of these contracts.***

a) £13 million has been allocated to maintain the estate in 2021-22. Funding for 2022-23 has not yet been confirmed.

(b) and (c) The following 9 contracts are in place:

- 1 x professional services and abnormal loads (call off with no headline value, minimum annual spend of £80,000 to maintain public safety & meet Highways England's statutory obligations)
- 2 x for examinations (call off with no headline value, minimum annual spend of £1.5m to maintain public safety & meet statutory obligations)
- 6 x works contracts (call off contracts with no headline value).

I am grateful to you and the Committee for your interest in the Estate, and in ensuring that Highways England is acting properly in its management of it.

Yours,  
Charlotte

**BARONESS VERE OF NORBITON**

