

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

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Dear Mr Merriman

Historical Railways Estate

We read with interest the response of Baroness Vere, Minister for Roads, Buses and Places, to your letter of 23 March 2021 regarding the Historical Railways Estate (HRE).

The Minister makes a valid point about the work of Highways England in restoring some of the Estate's more prominent structures, many of which - like Twizel Viaduct - are listed to safeguard them from adverse development. This work should be more widely publicised and we endorse Baroness Vere's recognition of it.

However her response fails to acknowledge that Highways England ranks lowest of the 20 Departments and agencies responsible for managing the Government's historic estate, with a compliance rating of just 50% in terms of its obligations under the mandatory Protocol which sets out a consistent, coordinated approach to protecting the assets therein.

Several of the statements made by the Minister in her letter conflict with the available evidence. We have followed Baroness Vere's convention by reproducing her statements in *italics* before offering our response.

Transfers of ownership

We welcome the transfer of structures to other bodies for positive reuse, but the very small numbers involved are, in part, a function of the modest dowries made available. In 2015, Andrew Jones, then Parliamentary Under Secretary of State, confirmed that such dowries "reflect the future inspection *and maintenance* costs of the structure".

We understand that the five bridges recently transferred to Cornwall Council for an HE-funded active travel scheme initially came with an offer averaging £30K each. On the basis of Highways England's own figures, this would pay for 12 years of inspections, modest repairs and an assessment. However one of the structures was earmarked for infilling, the average cost of which is £145K. This sum should also have been included.

It is unfortunate that the financial incentive for a local authority to take on a structure is generally insufficient to justify the associated risks, particularly if funding has not yet been secured for the infrastructure scheme it is intended for.

Whilst we also welcome the aspiration of a wholesale transfer of structures to local authorities, this would - as Baroness Vere recognises - have to involve an appropriate resolution of this issue. As it states in Highways England's 2016 Draft Strategic Plan, "it is currently assumed that this will not prove achievable. Whilst this remains an open ambition for DfT, various attempts to achieve this over the past thirty years have all failed."

In the more foreseeable future, the transfer issue is further compounded by HE/DfT's willingness only to transfer structures to other statutory bodies (RPL excepted). Villagers in Horspath, Oxfordshire, have long expressed a wish to assume responsibility for a bridge - currently under threat of demolition - which is a valued local asset and acts as both a traffic calming measure and wildlife corridor.

Highways England has asserted that the community does not have the necessary skills to maintain the bridge appropriately and will therefore not agree to a transfer. This is ironic as failures in HE's maintenance regime recently resulted in the emergency demolition of its parapets, much to the villagers' dismay.

Pre-work appraisal

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

This statement contradicts itself. If Highways England had gained "clarity over the aspirations for potential reuse" of a structure, why would it need to pause infilling schemes to examine options for retention?

Highways England continues to make claims regarding dialogue with local authorities which - based on correspondence sourced from the LAs under FoI - has been haphazard and focussed primarily on planning and highway issues. There is no evidence to suggest any meaningful interaction with officials responsible for active travel development or with the many third-sector/voluntary groups who often nurture schemes from early development through to delivery. This last point represents a crucial omission in HE's approach.

In the past few days, we have spoken to two of the three heritage railways whose extension plans are jeopardised by proposed bridge infilling schemes. They have heard nothing from Highways England.

If, in three weeks, two campaigners with full-time jobs could determine that 41 of the 134 at-risk structures have demonstrable short or medium-term value with regards to future sustainable transport provision, why couldn't Highways England? Answer - because they didn't see the need to look. The difficulties that have subsequently arisen are a consequence of that failing.

The infilling/demolition programme

"The correct figure for structures identified as at risk of demolition between now and 29/30 is 15, not 480."

We have always accepted that, currently, only 15 structures have been *specifically identified* for demolition. However this does not preclude the intention set out in HE's Draft Strategic Plan for future management of the HRE which states that "The Plan would also reduce the actual number of structures in the HRE (estimated to be between 10 and 15%) through demolitions." The figure of 15% equates to around 480 structures.

We would urge the Committee to seek confirmation from the Minister that 15 demolitions now represent the totality of Highways England's intentions and that the 10-15% figure is no longer being pursued.

"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..."

It should be noted that ten (8%) of the at-risk structures have a scheme priority rating of 4 ("no works required") - including seven of the demolitions - and 12 (9%) have a scheme priority rating of 3 ("Some concerns but no action required at present").

"Factors that also influence this are where there is a known use, a protected route, or it is a planning requirement."

As already stated, 41 of the 134 at-risk structures have short or medium-term value in terms of identified future sustainable transport potential, with some schemes already being actively progressed. At least 50 (42%) of the bridges span disused railways that are safeguarded against adverse development through one or more adopted policies in the relevant council's Local Plan. Our trawl of these Plans is currently about 80% complete.

The criteria and evaluations used to determine the structures now earmarked for infilling or demolition were clearly flawed.

"...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."

Infilling is intended to be permanent and designed accordingly. Reversal may be possible - most things are if the budget is sufficient - however the reality is that infilling creates hidden critical elements which can no longer be inspected or maintained. If/when deterioration or failure of those elements results in load being transferred onto the fill material, the risks associated with excavation would be significant and difficult to manage. Concrete has to be broken out, not "dug out".

It is much more likely that demolition would be required and a new bridge constructed at significant cost, thus impacting negatively on the business case for any repurposing.

Both excavation and reconstruction impose unnecessary financial burdens. Is Highways England proposing to provide the necessary funds? Of course it isn't. So far more preferable is the robust identification of potential future need and the undertaking of proportionate and appropriate repairs or strengthening, thus greatly reducing costs.

Permitted Development

"Permitted Development Orders exist in order to prevent an emergency from occurring and it is within this principle that HE would use such powers."

This statement does not align with the evidence.

The powers mostly being invoked by Highways England in relation to the infilling programme are Schedule 2 Part 19 Class Q of The Town & Country Planning (General Permitted Development) (England) Order 2015 or its equivalent in Scotland.

These powers facilitate *temporary* works to Crown Land where an emergency has occurred or is clearly arising, presenting a threat of death or injury. The property must be returned to its original state (i.e. in this context, the infill is removed or the structure rebuilt) within six months of work starting unless the Local Planning Authority consents to an alternative state in writing.

Several local authorities have rejected Highways England's attempted use of these powers. Five sample responses are reproduced below:

"...there does not appear to be an "emergency"... I also note that...there is no intention to restore the land to its original condition, and the infilling is intended to be permanent. For this reason, the proposal is not considered to accord with the provisions of Part 19 Class Q and it is advised that planning permission would be required for the works."

Stratford-upon-Avon Council

"The reduced loading capacity of the bridge does not currently represent an emergency... Your letter doesn't provide a detailed assessment of the risk of an emergency arising... The proposed structural infill of the bridge would be a significant and permanent structural change to the existing bridge... I am of the view that planning permission would be required..."

Glasgow City Council

"I do not consider that the works can be considered to fall within the meaning of emergency... I note that you have been aware of the failings of the structure since 2008... I would suggest therefore that you make a planning application for the works..."

Dartford Borough Council

"As more than six months have passed and we understand that no physical interventions have yet taken place at any bridges ... it is the view of the Council that such works can no longer be considered to fall under Schedule 2, Part 19, Class Q... as they cannot be classed as emergency works. I can confirm that any works to these structures as described would now require full planning permission."

Northumberland County Council

"Based upon the information provided with your submission there is no clear evidence of an emergency that needs to be remedied... I think it would be appropriate for the emergency provisions to be clarified in relation to what serious damage to human welfare, the environment or security is threatened."

Herefordshire Council

"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."

This statement does not align with the evidence.

Of the 134 structures originally earmarked for demolition or infilling, only ten have involved planning applications whilst 34 were the subject of Permitted Development (Class Q or equivalent) notification letters. In the remaining cases, Highways England sent letters to the Local Planning Authority inviting them to define the works as Permitted Development.

There are no overriding safety issues at any of the bridges where specific attempts were made to progress works under PD. The structures are mostly in Good or Fair condition, showing no meaningful signs of being overloaded.

On 10 September 2020, Jacobs - the consultants acting for Highways England - told Mendip District Council that a bridge near Wells was "in a deteriorating condition with movement and stability issues". As a result, an infilling scheme would be progressed under PD powers "to prevent an emergency arising".

Mendip rejected this notification and, on 6 October 2020, Jacobs told them that the scheme had been put on hold, supposedly because £16K of repairs - mostly to the non-load-bearing parapets - that had been carried out ten months earlier. It was clearly a ruse.

There is absolutely no legitimate defence for the use of Permitted Development powers; these infilling schemes are routine asset management activities. If there were any impending emergencies at these bridges, it would be an indictment of the past eight years of Highways England's asset management regime.

Justification for infilling

It should be recognised that some of the structural assessments which, in part, are being used to justify the infilling schemes are often old (some dating from the 1990s and thus predating the technology that can deliver more robust evidence/analysis) and were occasionally undertaken in sub-optimal conditions.

For example, Highways England asserts that a bridge in Devizes has a restricted capacity of 3 tonnes, based on an assessment undertaken in 2002. One of the engineers involved noted that "the problem we have had all along with this structure is trying to get an accurate arch profile".

Wiltshire County Council commissioned Atkins to reassess the structure in 2017, employing laser scanning techniques. This produced an accurate arch profile and the bridge was determined to have a capacity of 40 tonnes. However it is still under threat of infilling.

Our engineers are of the view that many of the assessments being used by Highways England - particularly those relating to masonry arch bridges - are likely to underestimate capacity. Unfortunately we have been unable to make any further evaluations due to HE effectively shutting down Freedom of Information with respect to the HRE, including the refusal of requests submitted by at least two Members of Parliament.

Costs

"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 is not correct. The average infilling cost of around £145,000 per bridge was derived from information supplied by Highways England for five schemes (ranging from £109K to £180K), none of which included 'an opening for future use'.

On a broader issue, the Department for Transport has still not explained how Highways England was able to issue framework contracts to six companies with a total value of £254 million over seven years - equating to £36.3 million annually - for works to the Historical Railways Estate if “no decisions have yet been made as to the level of HRE funding” beyond 2021-22, as asserted in the DfT’s letter to The HRE Group of 11 January 2021.

We would urge the Committee to seek confirmation from the Minister as to the commitments or indications made to Highways England about future funding for the HRE.

Restricting access

“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... 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.”

Whilst we have no argument with this statement as far as it goes, it paints a distorted picture through a lack of balance. The *removal* of fencing and *facilitation* of access can be a *solution* to incidents of anti-social behaviour which, in some forms, thrive on isolation.

What is beyond doubt is that the approach taken by Highways England is considerably more risk-averse than that of its predecessor, British Railways Board (Residuary). This has had a widespread and, in most cases, unjustifiable impact on public access and enjoyment. In our experience, Highways England’s case-by-case decisions *always* result in structures being fenced off, often based on spurious assertions about wildlife.

A particularly damaging example is that of Windsor Hill (New) Tunnel in Somerset - a short, straight passageway in good condition. Since the closure of the Somerset & Dorset Railway in 1966, it has been used by the local community for exercise and exploration of the countryside at both ends. However, without dialogue or explanation, the tunnel was fenced off in September 2018. The Friends of Windsor Hill Tunnels has since been established to lodge an appeal for the route to be reopened and designated as a right of way.

The impression created by the Minister’s high-gloss response is that Highways England is doing everything right. Unfortunately, that does not reflect reality. The company can provide no proportionate engineering or public safety justification for the actions being taken and Baroness Vere fails to offer even the slightest acknowledgement that the infilling and demolition programme is having negative impacts on sustainable transport schemes.

Taxpayers could not care less who owns a bridge they pass beneath on a cycle path. What they do care about is value for money and public bodies working collaboratively with communities to deliver the greatest possible benefit.

In contrast with BRB(R), Highways England does not grant licences for greenways to pass over or beneath HRE structures. Why not? Why is the only route to the positive rehabilitation of these assets for hard-pressed local authorities to accept their transfer? Why does the supposed commitment of HE/DfT to encourage active travel not extend to allowing HRE structures - the maintenance of which is already publicly funded - to be reused whilst remaining under their management/ownership?

There is no legal or practical reason why licences cannot be granted; it is simply a matter of policy in an attempt to force these structures off the Government's books.

The basic theme of the Minister's letter is that the ongoing infilling and demolition programme is entirely justified and appropriately managed. Tell that to those developing the Alnwick Greenway in Northumberland, the Neilston-Uplawmoor Community Link in East Renfrewshire and the Hereford-Hay Greenway in Herefordshire; tell that to the volunteers of the Mid-Norfolk Railway, the Stainmore and Eden Valley railways in Cumbria, and the Caledonian Railway in Brechin whose planned extensions are now under threat; tell that to the campaigners who are working to promote the reopening of the Penrith-Keswick branch in the Lake District, the Dumfries-Stranraer line through south-west Scotland and the Carmarthen-Aberystwyth route in west Wales; tell that to the group whose ambitious vision is to develop a 'renewal corridor' along the route of the former railway into Bridport, Dorset: all now under threat despite the assertion that "HE will not usually demolish or infill if they are notified of a potential feasible future use". Please forward this letter to Highways England as our notification of these potential reuses.

We have attached a report offering an overview of the most valuable affected HRE structures and we encourage you to watch our video report which examines the prevailing issues through three case studies...

https://youtu.be/i_JUNXUPkFQ

We also ask for a follow-up meeting with the Committee to consider next steps.

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.

(See over for Distribution List)