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28th July 2021

Our ref: TP/LNE/2021-089

Dear Teresa,

Application for Prior Approval for re-constructed bridge and improved mobility access, Bridge MVL3/98, Fieldhouse, Huddersfield

Please find enclosed the requisite plans and details outlining alterations to bridge MVL3/98, Fieldhouse overbridge, Huddersfield. As you will be aware Network Rail have submitted an Order Application under the Transport & Works Act for a series of improvements to the railway between Huddersfield and Westtown (Dewsbury), to which the Council has made a series of representations and an Inquiry into the whole project is expected in the Autumn of this year.

In anticipation of the grant of the Order and to meet the deadline of the introduction of services to the Government's timetable it is necessary to carry out a series of advance works on a number of structures to permit efficient and speedy implementation of the wider proposals. However, it is readily accepted that these works would be carried out at Network Rail's risk if the Order is not given. In particular it is necessary to slew the existing two-track formation in the Hillhouses/Red Doles/Deighton area to the south, to allow the time-critical blockades of Huddersfield station to proceed as planned. Part of the work at Fieldhouse will aid this work through the re-stabilisation of the bridge abutments. The metallic deck is also life expired and requires replacement, and furthermore the bridge needs to be re-built to the correct height for electrification purposes. Finally, there are clear economic benefits to carrying out the work on Fieldhouse at the same time as the other advance structures (Ridings, Red Doles and Peel's Pit).

Fieldhouse overbridge comprises a half through wrought iron superstructure on masonry abutments, originally constructed around 1850. The structure carries a public footpath (HUD42/10) over the existing Up and Down Huddersfield MVL3 lines. Either side of the

footbridge, the footpath is formed from lose material on a steep slope. The southern approach to the bridge is formed from a steep concrete ramp with a gradient of approximately 1 in 4. Although the structure is 12.8m wide (originally carrying a highway), the footpath is constrained within a 3m corridor enclosed with a palisade cage. This is to prevent pedestrians accessing unsafe areas of the structure and to reduce incidences of trespass.

It is proposed to replace the existing superstructure with a new footbridge, founded on the existing masonry abutments. The new structure will have clear width of 3m to match the existing provision. It will be formed from weathering steel with a galvanised steel canopy. The canopy has been specified to replicate the existing security arrangement on the footbridge. Chevaux de frise will be placed at either end of the canopy to deter climbing. Palisade fencing up to a height of 3m will be installed for safety and security. The new structure will considerably improve the visual appearance of the bridge

To provide sufficient vertical clearance for the electrification below the structure, the new footbridge deck level needs to be higher thereby affecting the tie-ins into the approach paths. On the northern approach the new footbridge ties into the existing footpath within the bridge span. The approach structure at Fieldhouse includes a series of landings and steps on the existing footpath alignment to achieve the level difference. A dog-leg ramp of steel construction will tie into the stair landings. This will improve accessibility over the structure given the existing steep approach immediately to the east of the bridge.

Please find enclosed the following plans:

Location plan (1:2500)
Drawing 151667-TSA-31-MVL3-DRG-T-LP-162113 (Revision 1): Existing & Proposed Plan
Drawing 151667-TSA-31-MVL3-DRG-T-LP-162114 (Revision 1): Existing & Proposed Elevations & Cross-sections
Drawing 151667-TSA-31-MVL3-DRG-T-LP-162115 Ramp proposed elevation & detail
Photomontage of proposed structure

Planning consent for the structure has already been given by virtue of Part 18a to Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015, subject to certain conditions.

I would draw your attention to the provisions of Part 18a which states that permitted development applies when it is “authorised by (a) a local or private Act of Parliament (i.e. the original Act of Parliament that allowed the construction of the railway)……which designates specifically the nature of the development and the land upon which it may be carried out.” Development is not permitted (for specific items identified, such as buildings or bridges) “…*unless the Prior Approval of the appropriate authority to the detailed plans and specifications is first obtained*”. However the Prior Approval is…”not to be refused…nor are conditions to be imposed unless they are reasonably satisfied that - (a)

the development….ought to be and could reasonably be carried out elsewhere on the land; or (b) the design or external appearance of any…..bridge or building….would injure the amenity *of the neighbourhood and is reasonably capable of modification to avoid such injury."*

The original Act specifying this stretch of railway states that the railway undertaker can, from time to time, alter, repair, or discontinue the before mentioned works or any of them and substitute others in their stead, and do all other acts necessary for making, maintaining altering, repairing or using the railway. This "general power" is provided for in Section 16 of the 1845 Railway Clauses Consolidation Act, and it is this Act which is incorporated in all railway Acts since 1845. Acts before 1845 have the equivalent wording embodied within the sections of the Act as appropriate.

The decision of the Court Of Appeal in Emsley v North Eastern Railway Company (1896) l Ch 418 confirmed that these powers are not restricted to the period of construction but can be invoked from "time to time". The use of the original Act of Parliament as a means of using permitted development rights has also been upheld in a 2000 English Ministerial appeal decision, the reference number being APP/X/98/X5210/003059.

Therefore, the two tests to be applied are the siting of the structure and its design in terms of its impact on the amenity of the area. The first is axiomatic in that the bridge spans the railway, is already in situ and cannot be reasonably located elsewhere. It then turns on whether the design has any adverse impact on the amenity of the neighbourhood.

The bridge does not lie within any conservation area or designated landscape area. The bridge lies within the heavily wooded Birkby to Bradley greenway corridor, remote from any residential development and generally invisible to all but the users of the cycleway and users of footpath 42/10 itself. The design will be a decided improvement on the poor appearance of the existing structure; the use of weathered steel is consistent with other planned structures on the line and throughout the railway in general.

It is therefore considered that the material alteration to Fieldhouse bridge would not, by reason of design, be detrimental to the surrounding amenity. There are no other matters of acknowledged importance that should preclude the grant of Prior Approval.

For the purposes of Part 18a the enabling Act in this instance is the ***Huddersfield & Manchester Railway & Canal Act 1845,*** which incorporates clause 16 of the Railway Clauses Consolidation Act 1845. The extract of s16 is included for reference.

The prior approval process is not unknown to the Authority, being given in respect on alterations to bridge PEH/9, Hanson Lane Lockwood in 2017 (reference 2017/91187).

We therefore request the formal Prior Approval to the plans and specifications enclosed with respect to alterations to Fieldhouse bridge MVL3/98, in accordance with the

provisions of Part 18a to Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015.

Please note no fee is prescribed in cases of Prior Approval under Part 18 of the Order.

Please let me know if you require any further information. I look forward in due course to receiving an acknowledgement that the application has been deemed valid.

Yours Faithfully,

Tony Rivero
Town Planning Manager LNE