



Kirklees Council
Development Control
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Network Rail
George Stephenson House
Toft Green, York, YO1 6JT

Date: 02/02/2026

Our Reference: TP/LNE/2026-021 & 167037

Sent via email: planning.contactcentre@kirklees.gov.uk

Dear Sir/ Madam

Application for Prior Approval under Part 18a to Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015 for a parapet height extension to Bridge MVL3/75 Scar Lane, west of Milnsbridge

Please find enclosed the requisite plans and details outlining alterations to Bridge MVL3/75, Scar Lane, to the north-east of Marsden:

- Location Plan (including red line application boundary)
- 167037-TGP-56-MVL3-DRG-T-LP-167500-P02: Existing and Proposed General Arrangement
- 167037-TGP-56-MVL3-DRG-T-LP-167501-P02: Existing and Proposed Elevation and Section
- Extract of the Huddersfield and Manchester Railway and Canal Act 1845
- Extract of the Railway Clauses Consolidation Act 1845

This letter constitutes an application for the Prior Approval of details by Kirklees Council as the local planning authority (LPA). The application follows a presentation of proposed works to various bridges (including Bridge MVL3/75) to Kirklees Council officers in May 2025.

The Proposed Works

The existing bridge carries Scar Lane, a public highway, over the rail corridor and comprises a single span stone arch with stone parapets, abutments and wingwalls. The proposed works include a parapet height extension along the length of the bridge span and the installation of steel chevaux de frise. The parapet extension will increase the minimum parapet height to 1.85 metres by installing steel parapet extensions on top of the existing stone parapets. The proposed works are required to prevent trespass on the railway and to protect users from contact with (future) overhead lines. The existing span, deck, abutments, parapets and highway alignment will be maintained.

Permitted Development Rights

The proposed works constitutes railway operational development for which Network Rail has statutory powers to undertake. Planning consent is therefore granted by virtue of Part 18, Class A of Schedule 2 of the Town and Country Planning (General Permitted Development) (England) Order 2015 (the GPDO), which relates to development authorised by a local or private Acts of Parliament.

Part 18, Class A 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 building [...] would injure the amenity of the neighbourhood and is reasonably capable of modification to avoid such injury."

The original enabling 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) 1 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.

For the purposes of Part 18, Class A, the enabling Act in this instance is the *Huddersfield and Manchester Railway and Canal Act 1845*, which incorporates clause 16 of the Railway Clauses Consolidation Act 1845. Extracts of both Acts are enclosed.

Therefore, the two tests to be applied to the determination of this application for prior approval are the siting of the structure and its design in terms of its impact on the amenity of the area. The first is self-evident in that the bridge carries the railway, is already in situ and cannot be reasonably located elsewhere. It then turns on whether the design of the parapet height extension has any adverse impact on the amenity of the neighbourhood.

Prior Approval Assessment

Scar Lane Bridge (MVL3/75) is a tall single span arched masonry overbridge, spanning a deep cutting into the hillside. It is considered a non-designated heritage asset for its architectural and historic interest, chiefly for its height and slender engineering. The bridge is likely to date from the late 19th century, built to accommodate an increased number of lines including goods sidings to the east and west of the bridge.

The bridge does not lie within a designated landscape area or conservation area; however, it is adjacent to the northern boundary of the Milnsbridge Conservation Area, forming part of the Conservation Area's setting. Scar Lane either side of the bridge is residential in character, with the proposed works being visible at an oblique angle from some residential properties. The parapet extensions and chevaux de frise are proposed to be painted a charcoal colour to minimise contrast with the existing weathered stone, and all the existing bridge structures will be maintained. The proposed works will minimally alter the overall architectural appearance of the bridge and there would be negligible impact to the setting of the adjacent Conservation Area.

Given the local context and minimal intervention proposed, it is considered that the proposed works 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.



We therefore request the formal Prior Approval to the plans and specifications enclosed with this application in accordance with the provisions of Part 18, Class A of Schedule 2 of the Town & Country Planning (General Permitted Development) Order 2015.

Please note that no fee is prescribed in cases of Prior Approval under Part 18 of the Order. Please kindly issue a decision notice or letter stating that 'prior approval' has been granted for our records, in accordance with the 8 week statutory determination period.

Please do not hesitate to contact me on the e-mail address above should you have any queries on this matter or require further information.

Yours faithfully

Tony Rivero
Town Planning & Heritage Manager (North)
Network Rail Land & Property (Eastern)