



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

Date: 12/03/2026

Our Reference: TP/LNE/2026-033 & 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 the reconstruction of Pipe Bridge MVL3/50, north east of Marsden

Please find enclosed the requisite plans and details outlining alterations to Pipe Bridge MVL3/50, to the north-east of Marsden:

- Location Plan (including red line application boundary)
- 167037-TGP-54-MVL3-DRG-T-LP-165002-P02: Existing and Proposed General Arrangement and Sections
- 167037-TGP-54-MVL3-DRG-T-LP-165003-P02: Existing and Proposed Elevations
- 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 the proposed works to Kirklees Council officers in April 2025.

The Proposed Works

Pipe Bridge MVL3/50 consists of a cast iron channel section, with wrought iron truss, sitting on three stone piers. The proposed works comprise the replacement of the channel with a 600mm high density polyethylene pipe, which will provide increased flow capacity and the use of non-conductive materials. The geometry of the stone piers are tall and slender and are unable to accommodate the larger loading of the pipe without structural failure. Therefore, the piers cannot be re-used as part of the proposed works and will be replaced with reinforced concrete columns. The reconstructed bridge will connect into the existing inlet and outlet and will be secured with steel Chevaux de Frise to prevent trespass onto the bridge and railway. The proposed works are required to achieve the necessary headroom clearance to accommodate the installation of overhead lines.

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 reconstructed pipe bridge has any adverse impact on the amenity of the neighbourhood.

Prior Approval Assessment

Pipe Bridge MVL3/50 is constructed from wrought iron to form a bowstring girder from two trusses, supported by sandstone piers and carries water over the line. The pipe bridge is unusual but is of minimal heritage interest given its late date of construction in the late 19th or early 20th century.

The bridge is not located within a designated landscape area or conservation area. The land surrounding the bridge is rural in character, with agricultural fields to the north and west of the bridge. The bridge can be viewed from the immediate proximity of Marsden Lane but is screened from its northern and southern approaches given the enclosed nature of the Lane. The land to either side of the railway is vegetated with bushes and mature trees, which screen views of the proposed works from the Moorvale track to the north west of the bridge.

The proposed works will largely replace the existing bridge structure, but will retain a functioning aqueduct over the line including the stone outlet basin. The proposed pipe and Chevaux de Frise are to be painted holly green to reflect the natural context of the bridge and to minimise their visual impact on the surrounding area. The setting of the Grade II listed White Skye houses and barn (NHLE 1217644) to the east is largely formed by the surrounding agricultural land and will therefore be minimally impacted by the proposed works.



Given the local context and sensitive design 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 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)