



23rd November 2020

YOUR REF: **MC/312928**

Dear Chris Heaton-Harris MP

Thank you so much for your speedy response to our email and for underlining the issues that need to be dealt with. This certainly allows for positive progress, especially in light of the solutions that we can offer for each of the points in your letter which will a) have no real impact on your department's budget, and b) may even allow for some savings.

We thank you for raising the issue of public safety. It is lack of public safety which is the main barrier to people getting out of their cars and walking or cycling more. Creating **off-road** infrastructure is, across the board, the number one request for allowing people to get out of their cars and **safely** engage in active travel more (we have many public consultations to back this up). Public safety on the structures along these routes must therefore also be of paramount concern to us all – without considering that, people would not use these routes.

We are looking at structures that were built to last and withstand loadings significantly above those that pedestrians, cyclists or equestrians will impose on them. Although you mention the structures in question being managed to a 'lower' standard than modern highway standards and that the Secretary of State is only funded to deliver these lower standards, we do not recognise this as a barrier to re-use. Through working positively with Local Authorities (LAs) and Third Sector organisations on the points which you have raised and which we discuss below, we can have magnificent structures with a modern-day purpose and a pretty much infinite lifespan - all within your current budget.

1. Loadings for overbridges and the potential for falling masonry.

Regarding the complex discussion regarding exact loadings for bridges where a highway crosses a disused line, specifically BE4 -24t versus BD21 – 40-44t, and where the division of responsibility between DfT's Historical Railways Estate (HRE) and the LA or third sector organisation takes place:

You have already stated that you have a '*statutory responsibility to ensure that these structures are maintained to a standard that protects public safety*'. This duty should rightly remain within the current framework whether there is access under a structure or not; certainly if a bridge is carrying a highway meant for current traffic conditions, it must be maintained to the highest safety standards regardless of non-motorised users (NMUs) passing underneath. Therefore, we feel it is inappropriate to condition the granting of access to run under these structures on taking responsibility for those crossing above.

Regarding the potential for falling masonry: when assessing all the structures on a case by case basis, we are sure that your engineers would agree that the vast majority of structures are safe and the risk of falling masonry is small. Consequently, the associated liability would be relatively low.

HRE structures are visually inspected on an annual basis with a detailed inspection every six years; furthermore, having pedestrians/ cyclists/ equestrians going under these structures regularly also adds the potential for more pairs of eyes checking the structures even more frequently. We suggest that appropriate signage is installed with a contact name and email, which would benefit DfT in allowing people to understand the ownership of the structure and for DfT to receive timely reports of damage or concerns regarding the structure rather than a delayed report that has gone through several sources before reaching the relevant department. [We understand from DfT's engineers that delayed reporting of damage can be a problem.]

DfT should maintain their current liability with HRE, continuing annual inspections as usual. LAs should simply take out public liability for NMUs as path users.

It must be recognised that there are thousands of disused railway structures in this country with tens of thousands of path users passing beneath them on a daily basis – if there was a problem across the board, it would have been flagged by now. We understand that **some** structures will not be safe to pass under without appropriate mitigation in place. Again, it is important to ascertain this by assessing structures on a case by case basis.

Most importantly, an agreement should be in place that where any route passes over, under or through a disused rail structure, that this section of route would be a permissive route only. This would protect DfT liability for any works and maintenance required.

2. NMU access over HRE structures, loading and the issue of parapets.

In terms of bridges carrying the former railway being used by NMUs – the loading is relatively negligible – though would still be for the proposer's engineers to satisfy themselves. If a few horses and a cyclist were likely to bring down an arch structure, then it would likely be coming down anyway. Generally speaking, safety issues relating to these structures being opened to NMUs tends to be more in the realms of improving edge protection which brings us to your comment regarding bridge parapets.

No one is denying the inadequate nature of bridge parapets on some rail structures.

Solution: Historically, LAs and third sector organisations took on a licence, from what was then the BR Property Board, regarding responsibility for parapets and the works required to bring them up to a modern standard. Better still these licences also provided for a sealed surface to the bridge deck, thus significantly extending the lifespan of the structure and reducing the cost to the DfT for maintaining the rest of the structure.

Bringing this arrangement up to a modern standard would be best addressed within the permissive route agreement, allowing for LAs or third party organisations to bring edge protection and potentially surfacing up to the required standard for an NMU route. This would allow public safety concerns to be taken care of without adding any extra cost to the DfT.

In case there is a concern regarding unauthorised or over-weight vehicles using these routes, once more there is a simple proven solution – bollards, which could also be written into the permissive route agreement.

Again, as with going under, there are daily, thousands of trips made over disused rail bridges and viaducts, all without incident and this must be considered when taking a more proportional risk assessment of the situation.

3. Temporary closure:

We recognise that once a public right of way is created on, through or under an HRE structure the bureaucracy and cost associated with temporary closures can be significant and can be detrimental to the progress of a project to re-open for public access.

All the signatories to this letter place the creation of these accessible routes above the barrier of excessive bureaucracy. All are therefore happy to accept permissive / licenced arrangement for the section of any route that encounters an HRE structure.

Once there is a good surface under a bridge both inspections and repair become far easier and, in the main, there would be no need for a full path closure. Again, the risk assessment for this should be considered on a case by case basis.

We all lose if we take a disproportionate approach to the risk involved – your department having to fund excessive and unnecessary works and the Public through denial of access to valuable community assets. All we would ask is that a proportionate and realistic risk assessment is taken for the inspection and repair process.

To summarise and conclude.

- LAs or Third Sector path providers to extend public liability cover for NMUs as path users whilst DfT maintain current liability for the structure itself.
- That there is an agreement with all parties that where a route crosses an HRE structure that this section of route be permissive only.
- Where passing over HRE bridges and viaducts, LAs or Third Sector organisations take responsibility for parapets and waterproofing of the surface as part of the permissive route agreement.
- That there is a presumption against full path closure for annual inspection and minor maintenance activities, though risk assessment for that should be done on an individual basis.

Thank you again for your time spent on this matter. We really do feel that progress is being made and that we now have all the elements in place to reach a mutually agreeable solution.

Unlocking this situation will allow us all to move forward with our collective aims to improve active travel, improve public health, improve air quality and our environment by reducing emissions, reduce social isolation by connecting rural communities with greenways, boost tourism and provide opportunities for increased revenue.

We look forward to your response with confirmation on our proposals as set out in the points above.

Most respectfully,

- Sonia Kundu, Somerset Rail to Trail Project
- Rich Ackroyd, Frome's Missing Links
- Sarah Ellwood, Steam Coast Trail
- Richard Jones, Strawberry Line
- Rachel Thompson, The Trails Trust
- Iain Stewart, Sustrans
- Philip Hackett, British Horse Society
- Richard Pitman, Compass Disability
- Kirby Everett, Wildlife Trusts
- Steve Mewes, Somerset Climate Action Network
- Andrew Combes, Greenways & Cyclerroutes
- Sophie Gordon, Cycling UK