

DELEGATED DECISION REPORT

DET/2022/0017	RAILWAY BRIDGE BEJ42 BUXTON ROAD WHALEY BRIDGE	PARTIAL RECONSTRUCTION OF RAILWAY BRIDGE BEJ42. A5004 BUXTON ROAD, WHALEY BRIDGE.
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MAIN ISSUES

- Whether the proposed development complies with all relevant criteria set out under Schedule 2, Part 18 of the Town and Country (General Permitted Development) (England) Order 2015 as amended
- Whether Prior Approval is required having regard to the provisions of Schedule 2, Part 18, Class A

DESCRIPTION OF SITE

The application relates to Railway Bridge 'BEJ42' that crosses the A5004 Buxton Road, close to the centre of Whaley Bridge. The railway line that is facilitated by the bridge is a passenger and freight route connecting Buxton with Manchester. The bridge is also a Grade II Listed Building.

PROPOSAL

This Prior Approval application submitted by Network Rail seeks consent for the partial reconstruction of the railway bridge under Schedule 2, Part 18 of the General Permitted Development Order (GPDO) and runs parallel with a Listed Building Consent application being considered under HPK/2022/0342.

The applicant has explored four different options to repair the existing railway bridge, choosing option 4 which amounts to the replacement with steel arches, facing towards Whaley Bridge and two existing arches to the south-west side retained.

This option proposes that the two south-western most cast iron arches remain in situ. The remaining four cast iron arches would be removed and a series of steel arches installed which seek to reference the appearance of the existing cast iron arches. The new steel arches would be located in comparable positions to the existing arched ribs and perform structurally, and have a painted finish, referencing the existing.

This chosen option involves the removal of the failed iron and installation of new structure to the operational section of the bridge, which is said by the applicant to enable the retention of the historic fabric where this is possible and as such have the lowest minimal physical impact and the lowest visual impact.

SITE HISTORY / RELEVANT PREVIOUS APPLICATIONS

HPK/2008/0622	Listed Building Consent for reconstruction of bridge deck (Withdrawn)
HPK/2010/0289	Listed Building Consent For Removal Of Existing Railway Bridge And Replacement With Modern Deck Structure (Refused 15/03/2011)
	Appeal Dismissed - APP/H1033/E/11/2153685 (06/06/2011)

OFFICER COMMENTS

Whether the proposed development complies with all relevant criteria set out under Schedule 2, Part 18 of the Town and Country (General Permitted Development) (England) Order 2015 as amended

Part 18 of the GPDO relates to 'Miscellaneous Development'. Class A relates directly to development under local or private Acts or Orders. Development is therefore permitted if it complies with relevant parameters set out under Class A, which permits development authorised by a local or private Act or parliament (amongst other things) which designates specifically the nature of the development authorised and the land upon which it may be carried out. An assessment of the proposal against the parameters under Class A is undertaken below:

Development is not permitted by Class a if it consists of or includes –

- (a) the erection, construction, alterations or extension of any building, bridge, aqueduct, pier or dam; or**
- (b) the formation, laying out or alteration of a means of access to any highway used by vehicular traffic**

Unless the prior approval of the appropriate authority to the detailed plans and specifications is first obtained

Network Rail benefits from works that have deemed consent by virtue of Part 18 of the GPDO, that are authorised by Acts of Parliament. These acts provided for the original construction of the railway and contain future works clauses that permitted the original railway companies and their successors in title (Network Rail) the ability to undertake future works, not limited to the construction of the railway.

In this instance, the railway was authorised by the Stockport, Disley and Whaley Bridge Railway Extension Act 1857, which incorporates Section 16 of the Railway Clauses Consolidation Act 1845. This Act provides for the ongoing use, repair and replacement of authorised works, not limited to the construction of the railway.

In light of the above, the proposed alterations to the railway bridge are permitted under Schedule 2, Part 18, Class A. An assessment is subsequently required as to whether prior approval is required, which is undertaken below.

Whether Prior Approval is required having regard to the provisions of Schedule 2, Part 18, Class A

Part 18, Paragraph A.2 states that prior approval of the detailed plans and specifications is not to be refused by the appropriate authority nor conditions be imposed unless they are satisfied that –

- (a) the development (other than the provision of or works carried out to a dam) ought to be and could reasonably be carried out elsewhere on the land, or
- (b) the design or external appearance of any building, bridge, aqueduct, pier or dam would injure the amenity of the neighbourhood and is reasonably capable of modifications to avoid such injury

With regards to sub-paragraph (a) the works relate to a railway bridge – a specific structure where the works can only be carried out in its location and cannot be carried out elsewhere. Thus, prior approval is not required in this regard.

With regards to the design and external appearance of the bridge, the proposals have been considered by the Historic England and Council's Conservation Officer under the Listed Building Consent application that runs parallel with this application. Although they consider the works to amount of substantial harm to the Listed Structure, due to permanent loss of parts of the structure, they consider the design of the replacement elements of the bridge to be acceptable.

In any event, the matters of Prior Approval under Part 18 are limited specifically to the design and external appearance and whether this would injure the amenity of the neighbourhood as a result of the proposed works. Given the nature of the proposed works, it is considered that the works to the bridge would not in their own right result in the injury to the amenity of the neighbourhood.

Although it is noted that a number of objectors (in respect of the Listed Building application) consider that the works will cause significant disruption and safety concerns to local residents, businesses, and the adjacent primary school, any road closure would be for a temporary period. Any safety concerns would be controlled by other legislation, such as the Highway Act outside of the planning system. Such matters, lie beyond the scope of this prior approval application.

CONCLUSION / PLANNING BALANCE

Based on the above analysis, the proposed works to Railway Bridge 'BEJ42' over the A5004 Buxton Road, Whaley Bridge is permitted under Schedule 2, Part 18 of the GPDO and that Prior Approval is not required under the parameters of Class A.

It is therefore recommended that Prior Approval is Not Required.

OFFICER RECOMMENDATION : Prior Approval Not Required

Case Officer: James Stannard

Recommendation Date: 21st December 2022

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Signed by: Jane Colley Signature

On behalf of High Peak Borough Council