The Planning Inspectorate

Appeal Decision

Hearing held and site visit made on 17 April 2012

by Brendan Lyons BArch MA MRTPI IHBC

an Inspector appointed by the Secretary of State for Communities and Local Government

Decision date: 20 June 2012

Appeal Ref: APP/H1033/E/11/2153685
Bridge 42, Buxton Road, Whaley Bridge, Derbyshire

- The appeal is made under section 20 of the Planning (Listed Buildings and Conservation Areas) Act 1990 against a refusal to grant listed building consent.
- The appeal is made by Network Rail Infrastructure Ltd against the decision of High Peak Borough Council.
- The application Ref HPK/2010/0289, dated 10 June 2010, was refused by notice dated 15 March 2011.
- The works proposed are the removal of an existing railway bridge.

Decision

1. The appeal is dismissed.

Application for costs

2. At the Hearing an application for costs was made by the Council against the appellants. That application is the subject of a separate Decision.

Preliminary matters

3. The appeal relates to a cast iron railway bridge that spans between stone abutments across the A5004 Buxton Road, close to the centre of Whaley Bridge. The bridge, which dates from the 1860s, is a Grade II listed structure. It carries the twin tracks of the Buxton-Edgeley Junction ('BEJ') line and in the past also carried a third track for the Cromford and High Peak line.

4. Listed building consent is sought to demolish the bridge, which has been assessed as structurally defective. The original application, and the appeal as submitted, also sought consent for a replacement bridge, comprising a steel box girder span, flanked by bow-topped panels across the full width of each elevation. However, it was clear from the appeal submissions that little detailed consideration had been given by the Council or by interested parties to the proposed design of the replacement bridge. The application had not been accompanied by a separate formal notification[1] seeking the Council's prior approval to the proposed permitted development.

5. At the Hearing, the appellants confirmed that they were anxious to have as much input as possible into the design of a potential replacement structure, and that their prime concern was for the future of the existing bridge to be determined. Accordingly, they requested that the proposed replacement be omitted from consideration in the appeal. The Council supported this change

[1] Under Part 11 of Schedule 2 to the Town and Country Planning (General Permitted Development) Oder 1995

and I was satisfied that no party's interests would be prejudiced by it. The merit of the proposed replacement design had not been put forward as a factor in favour of the demolition. The appeal proceeded on the basis of the amended description set out in the main heading above.

Main Issue

6. The main issue in the appeal is whether replacement of the existing bridge is justified on safety grounds and, if not, whether the harm due to the loss of the bridge would be outweighed by other substantial public benefits.

Reasons

7. In considering a proposal for listed building consent, the duty imposed by section 16 of the Planning (Listed Buildings and Conservation Areas) Act 1990 requires that special regard must be had to the desirability of preserving the building or its setting or any features of special architectural or historic interest which it possesses.

8. National policy guidance set out in the National Planning Policy Framework ('the Framework') confirms the great weight in favour of the conservation of 'heritage assets' such as listed buildings. The particular significance of any element of the historic environment likely to be affected by a proposal should be identified and assessed. Any harm should require clear and convincing justification. Substantial harm to or loss of a Grade II listed building should be exceptional.

9. In this case, there is broad agreement that the historic interest of the listed bridge lies in its survival as part of the original railway infrastructure of the area. The bridge is particularly significant for its cast iron arch construction. Whilst a number of cast iron bridges remain in active use on the regional rail network, they have become increasingly rare and there are few examples in Derbyshire. Whether the bridge was actually designed by William Baker, Chief Engineer of the London and North Western Railway Company, appears to be uncertain. However, the design is of clear interest owing to the expressive form of the ribbed arch structure and bracing, to which added complexity is given by the skew plan. The bridge provides a prominent townscape feature at the entrance to the town centre, and frames views to and from the nearby conservation area. Its preservation is highly desirable.

Safety

10. Following an inspection in 1997 that revealed excessive stresses on the structural members, rail traffic across the bridge has been controlled to restrict heavy freight movements to a speed of 10mph. The current condition of the bridge is outlined in a technical report submitted in support of the listed building consent application. It identifies 7 areas in which the condition of the structure can be classed as poor. However, it was confirmed at the Hearing that only one of these, cracking at the mid-span connection of the cast iron arch on the east face of the bridge, was of a different order of seriousness to the others. The precise extent of this crack, first noted in 2002, could not be plotted, but it had not increased since active monitoring began in 2009.

11. There is no dispute that cast iron is a brittle material that is prone to sudden failure. But despite the potential seriousness of the cracking, the appellants accepted at the Hearing that the bridge could not currently be regarded as

unsafe, in that it continues to be used without restriction for regular passenger services and for occasional freight traffic. It was confirmed that in the event of remote monitoring revealing that a trigger point had been reached the likely outcome would be temporary closure of the line and of the road to enable evaluation and possible propping.

12. The nature of cast iron also makes the safety of the bridge at particular risk from being struck by a vehicle. Parts of the span are below recommended minimum clearance height for highway structures. The difficulty that very large vehicles can occasionally encounter in passing under the bridge was witnessed at the commencement of the appeal site visit. However, there is no significant history of vehicle strikes at the site. It is notable that there are no special highway restrictions or warnings in place. Even modest restrictions on parking under and close to the bridge would clearly help large vehicles to avoid being forced under the lower sections of the span. There was no evidence that the risk of a vehicle strike was any more significant now than at other times in the history of the bridge.

13. The evidence suggests that there is no immediate justification on safety grounds for the removal of the bridge. But it is clear that the risk of failure of a main structural member in a highly critical location is a serious concern. The matter does not revolve entirely around the appellants' desire to maximise utilisation of the line for freight traffic, as seen by the Council. It cannot be assumed that the condition of the bridge will allow present levels of usage to continue indefinitely. The fact that the crack has only appeared within the past ten years suggests that the structure is showing signs of distress. The observed opening and closing of the crack with the passage of traffic and of the seasons implies scope for further deterioration.

14. The evidence suggests that some action will be required to address the condition of the bridge. The possibility that heavy maintenance trains would ultimately be prevented from passing over the bridge would have consequences for any use of the line. There would be some public benefit, as advocated by the appellants, in ensuring that any works were carried out on a planned basis, in order to minimise disruption to rail and road users.

15. The technical report outlines the difficulty in repairing damage of this type to cast iron structures, concluding that an effective and guaranteed cast iron repair could not be confidently achieved. No expert evidence has been offered to contest this view. Potential repair options earlier put forward by English Heritage do not appear to offer a reliable solution.

16. However, the report also outlines potential options for strengthening the existing structure that could improve its performance and overcome the need for replacement. There could be scope to ensure the safety of the bridge with considerably less harm to its heritage significance than total loss. I endorse the view of English Heritage that these options have not been adequately explored. It was accepted at the Hearing that at least one such option, involving the insertion of new beams below the existing deck structure, could be investigated further.

17. Derbyshire County Council (DCC), which was represented at the Hearing, objects as highway authority to a proposal that would involve sub-standard headroom, with a related concern about the cost of re-routing school bus services currently operated by double-decker school buses. However, the

engineering objection to the achievement of headroom by lowering the carriageway, due to the potential problems of drainage, relocation of services and linking with existing junctions and private access points, does not appear to be based on any detailed study of the site.

18. In the absence of evidence of immediate safety concern that prevents operation of the rail line or poses an urgent risk to rail and road users, and of a full exploration of the potential to strengthen the existing structure to address longer term safety issues, there is insufficient justification to support consent for removal of the bridge on safety grounds.

Other substantial public benefits

19. Replacement of the bridge with a new fully compliant structure would allow the appellants to eliminate a significant point of constraint on the rail network, in particular by allowing greater use of the BEJ line for heavy freight traffic. Further information was provided at the Hearing to supplement the appellants' earlier response to a series of questions posed by the Council.

20. A main advantage of replacing the bridge would be to ensure that an unhindered service could be guaranteed for trains taking aggregate from nearby quarries and important supplies to power stations, in the event of other key routes being unavailable. In the longer term, the full availability of the route would allow for increased scheduled freight services and for planned strategic expansion of freight traffic. This enhanced capability of the line has the express support of the Department for Transport. DCC also point to the potential continued growth in usage of the line for passenger traffic. These enhancements would provide substantial public benefits.

21. Evidence of other claimed benefits of greater use of the BEJ line, such as the scope for increased passenger services on the main Manchester-Sheffield line as part of a proposed 'Northern Hub', remains unquantified.

22. However, again there is a lack of detailed exploration of alternatives. From the operational point of view, there is an understandable desire to maximise capacity by having all parts of the network available without constraint. Yet the appellants state that cast iron bridges continue to function satisfactorily elsewhere in the network. The appeal bridge has its particular inherent characteristics of design and layout. There is no dispute that even if fully repaired it would not be suitable for current maximum standards of speed and heavy axle weights. But limited evidence has been put forward on the scope for less than optimal speed and axle weight restrictions on the bridge, such as might be allowed by the strengthening alternatives outlined above. Insufficient evidence has been provided to allow an assessment of whether a reasonable level of use of the bridge could be achieved without its total loss.

Conclusion

23. In the light of the Framework's guidance that loss of a listed structure should be exceptional, the must be a clear balance in favour of public benefits against the harm caused to heritage significance. In this instance, the case has not been made either on grounds of safety or of other public benefits to justify immediate replacement of the bridge, and the appeal is therefore dismissed.

Brendan Lyons INSPECTOR

APPEARANCES

FOR THE APPELLANTS:
Network Rail Infrastructure Ltd

Jill Stephenson	Senior Town Planner
Mark Wheel	Senior Asset Manager Maintenance
Liam Coleman	Senior Asset Engineer Structures
Steve Rhymes	Senior Route Freight Manager
Alan Howarth	Commercial Scheme Sponsor

FOR THE LOCAL PLANNING AUTHORITY:
High Peak Borough Council

Jane Colley	Senior Planning Officer
Joanne Brooks	Principal Design and Conservation Officer
Nicola de Bruin	Solicitor

INTERESTED PERSONS:

Jonathan Goldfinch	Councillor Whaley Bridge Town Council
John Swift	Councillor Whaley Bridge Town Council
Kevin Williams	Senior Transport Officer Derbyshire County Council

DOCUMENTS

1 Council's letter of notification of the Hearing and list of those notified
2 Schedule of listed bridges designed by William Baker
3 Council's costs application
4 Copy of e-mail dated 27 January 2012 from English Heritage to the Council

If you require an alternative accessible version of this document (for instance in audio, Braille or large print) please contact our Customer Services Department:
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